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WARRS BY W. THOMAS, Esq.

A TREATISE

ON THE

LAW OF BAILMENTS

BY

SIR WILLIAM JONES, Bart.

THE HONORABLE

A PRACTICAL TREATISE

ON THE

LAW OF PRINCIPAL AND AGENT

A TREATISE

ON

SIR THOMAS BENTON

POOR LAW AMENDMENT ACT.

WHAT IS SPECIAL PLEADING

WITH A PROPOSAL OF EMENDATIONS IN

THE FORMS OF ACTION.

THE ACT FOR THE

REPEAL OF THE ACT

AND THE

INTERPRETATION ACT

WITH NOTES

PREPARED FOR PUBLICATION

A PRACTICAL TREATISE

ON THE

LAW OF PRINCIPAL AND AGENT.

37

WORKS BY W. THEOBALD, ESQ.

AN ESSAY
ON THE
LAW OF BAILMENTS;

BY
SIR WILLIAM JONES, KNT.,
The Fourth Edition.

A PRACTICAL TREATISE
ON THE
LAW OF PRINCIPAL AND SURETY.

A LETTER
TO
SIR THOMAS DENMAN,
ON THE QUESTION
WHAT IS SPECIAL PLEADING?
WITH A PROPOSAL OF EMENDATIONS IN
THE FORMS OF ACTION.

THE ACT FOR THE
FURTHER AMENDMENT OF THE LAW,
AND THE
INTERPLEADER ACT:
WITH NOTES.

PREPARING FOR PUBLICATION,

A PRACTICAL TREATISE
ON THE
LAW OF PRINCIPAL AND AGENT.

THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES

Page 28. Line 12. Instead of "the" read "the".
Page 29. Line 1. Instead of "the" read "the".
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Page 76. Line 1. Instead of "the" read "the".

CORRIGENDA.

Page 28, line 13. Instead of 59 Geo. 3, c. 69, *read* 58 Geo. 3, c. 69 ;—which, also, in the same page, is described as “ the Select Vestry Act, commonly called Mr. Sturges Bourne’s ; ”—whereas it is the General Vestry Act,—the Select Vestry Act of Mr. Sturges Bourne, being the 59 Geo. 3, c. 12. The scale of voting also should have been described, as one vote in respect of an assessment under 50*l.*, and one vote for every 25*l.*, where the assessment is 50*l.* or upwards, till six votes, the maximum allowed to any owner. See p. 106 n.

Page 33, line 1. It is erroneously stated in this page, that the power of a single justice to order relief depended on the stat. 36 Geo. 3, c. 23, s. 1 ; and the repeal of this statute has not the effect here stated, of vesting the power of relief only in petty sessions, but that power,—such as it is,—(see page 33, line 7, *et seq.*) may be exercised by a single justice.

Page 87. n. The recital of the 29th section is, that “ in divers unions under Gilbert’s Act or under local acts, the whole of the expense as well of upholding the united workhouses as of maintaining and relieving the poor of the respective parishes of the unions, is assessed in proportions fixed at the period when the unions were formed.” Now as to unions under Gilbert’s Act, the proportions fixed on the formation of such unions, relate not to the expense of relieving, but only to the expense of upholding the workhouses and to some other incidental charges. There is, therefore, as to the second class of accounts in Gilbert’s Incorporations, a little inaccuracy in the facts supposed in this part of the note ; it does not, however, affect the reasoning, nor the validity of the objection to the remedial part of the section.

Page 106. n. (*l*), line 3, for 60*l.* read 50*l.*

* * * *To be placed opposite the title-page.*

(THE
Poor Law Amendment Act;
WITH
A COMMENTARY
ON THE
POWERS OF THE COMMISSIONERS;
AND A
GENERAL INTRODUCTORY VIEW,
SHOWING
HOW THE ACT AFFECTS
THE
Law of Relief, Settlement, Removals, and Appeals;
WITH THE CHANGES MADE IN
GILBERT'S AND OTHER INCORPORATIONS;
ALSO,
AN ACCOUNT OF THE DROPPED CLAUSES, NOT INCLUDED IN THE
ACT, BUT RECOMMENDED IN THE REPORT
OF THE COMMISSIONERS.

BY WILLIAM THEOBALD, ESQ.,

BARRISTER AT LAW,

The Drawer of the original Bill for the Commissioners.

LONDON :

S. SWEET, CHANCERY LANE; STEVENS & SONS, BELL YARD,
Law Booksellers and Publishers.

1834.

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Stevens and Pardon, Printers, 37, Bell Yard, Temple Bar.



PREFACE.

HAVING allowed myself to be described as “the Drawer” of the original Poor Law Bill, while Mr. Tidd Pratt—whose edition, though little more than a reprint of the Act, bears some marks of an official character—has only described himself as having assisted in preparing it,—my readers probably will expect some explanation on this point from me: I therefore say, that I drew the Bill under the original instructions for that purpose of the Commissioners of Inquiry; and, that when it came to be discussed in detail by the Cabinet, that gentleman, as a person in the confidence of Government, was substituted for me.

The original matter of the following pages is of two kinds,—notes which are chiefly critical; and an introduction which is merely expository:—the task has been performed since the Bill has passed; but it was undertaken at the commencement of my retainer. I should have retreated from it, for reasons which it is unnecessary to explain, but I found that my publishers relied upon me.

For my opinions—formed conscientiously—I am responsible to no one: I will, however, observe, that it never was my design to give these notes an opposition character; and where that does occur, it is not assumed for the occasion. Long before the Bill was in the hands of any counsel, I contended amongst my friends, that, in the constitution of a central authority, great care should be taken to bring such of its acts as were merely ministerial to the law, within the jurisdiction of the supreme courts of justice;—why,—though in the main a friend to the commission,—should I now suppress the opinion, that that has been done very inadequately?

I will, however, confess, that the fact used in support of this principle (see p. 122, note to sect. 49) is not the sort I should have used, had time given—as it no doubt will—many to select from.

I equally assert it as my right to make the objections which will be found in the note to the 40th section. If indeed there is a single line which betrays professional confidence, on that, I could say nothing in excuse;—and but that I can deny it as an allegation of fact, I would, in silence and shame, let judgment be entered against me.

WILLIAM THEOBALD.

1, Inner Temple Lane,
Sept. 20, 1834,

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GENERAL INTRODUCTORY VIEW.

IN this Introduction I intend to give a general view of the alterations made by the present Act in the Poor Law system, referring, where difficult or doubtful points occur, to the notes for the argument upon them.

The most complete treatise on the Poor Laws being that of Mr. Nolan, in which there are subjects not included in the neat summary of Mr. Archbold, but some of which are still more or less affected by the present Act, I shall take from the former my heads or divisions, and thus make this general view a supplement to both of those publications.

CHAPTER I.

OF SETTLEMENTS. (a)

1. OF THE DERIVATIVE SETTLEMENTS.

2. OF THE ACQUIRED SETTLEMENTS.

The several methods of acquiring settlements have been divided into two general classes: 1. Such as are communicated without a residence of forty days. 2. Those for the acquisition of which such residence is necessary.

(a) See *post.*, note to sect. 68.

The former, called derivative settlements, are, 1. Marriage; 2. parentage; 3. birth. The latter, called acquired settlements, are *by inhabitancy*, 1. as an hired servant; 2. as an apprentice; 3. serving an office; 4. as occupier of a tenement; 5. as owner of an estate; 6. as a payer of certain of the public taxes or levies of the parish.

Settlements by any of these means gained before the passing of this Act, (August 14th, 1834,) with the exception only of settlements by estate(*a*), are not affected by it.

1. OF THE DERIVATIVE SETTLEMENTS.

1. *Settlement by marriage* is not affected by this Act.

2. *Settlement by parentage or birth*, as to legitimate children, is not altered by this Act. But as to illegitimate children, whose settlement was also called a birth settlement, there is this alteration, that instead of being settled in future in the place of their birth, the 71st section provides, that every illegitimate child born after the passing of this Act, shall have and follow the settlement of its mother, until it attain the age of sixteen, or acquire a settlement in its own right.—But this enactment supposes the mother to have a settlement; and, therefore, if she

(*a*) Mr. Archbold does not notice this exception, but erroneously puts as an exception, and as the only exception, settlements by apprenticeship in the sea service. That settlements by estate so far as they are at all affected by this Act are such an exception is manifest, for, on the plainest construction, a settlement by estate gained before, and possessed at the passing of the Act, ceases at this latter period, if the pauper resides ten miles distant, the enactment being that *no person whose residence is so far off shall be adjudged to retain his settlement*, but he shall have his last previous settlement. On the other hand, that settlement by apprenticeship in the sea service is not such an exception, is too plain for argument.

have not, the settlement of such child will be as formerly, which generally will be in the place of its birth, except seemingly, 1. When born in an extra-parochial place; in which case the child will continue casual poor: or 2. in a place to which the mother not having a settlement has been removed, or induced to remove by fraud; in which case the settlement will be in the parish removed from: or 3. when born in a prison, the mother being in custody there; in which case it will be settled in the place in which she was apprehended: or 4. when born in the Foundling Hospital, or when the mother is wandering and begging, or in a lying-in hospital, or any house licensed for the reception of pregnant women, &c. or under circumstances provided for by the Friendly Society Acts: in all which cases the child will be casual poor, the mother having no settlement (*a*). In the case provided for by the Statute 54 Geo. 3, c. 170, s. 3, of a child born in a house of industry situate in some other parish than that which sent the mother there, the child, it seems, will belong to the latter parish, though the mother herself is not settled there.

2. OF THE ACQUIRED SETTLEMENTS.

1. *Settlement by hiring and service*, cannot be *acquired* in future (*b*): but as settlements are acquired as soon as the service, or title is completed, this provision does not apply to any past hiring and service.

As to settlements of this kind the title to which is not yet completed, the 65th section enacts, that no person under any contract of hiring and service not completed at the time of the passing of this Act shall acquire any settlement by reason of such hiring and service.—But

(*a*) See 1 Nolan, 325, and the statutes there referred to.

(*b*) Sect. 64.

this, it seems, will not affect the case of united services sufficient at the time of the passing of this Act to give a settlement, though one of those services was running at that time, the contract not being then completed;—for, in that case, in respect of the united services, the settlement is acquired already, though the contract, as to one of the services is not completed.

2. *Settlement by apprenticeship.* By the 67th section, after the passing of this Act no settlement shall be *acquired* by being apprenticed in the sea service, or to a householder exercising the trade of the seas as a fisherman or otherwise, nor by any person now being such an apprentice, in respect of such apprenticeship.—But settlements of this kind, acquired under a title complete before the passing of this Act, are not affected by it (a).

By section 61, settlements of parish apprentices are indirectly affected, a new formality being required by it, the non-observance of which will invalidate the indentures, and consequently prevent in such case a settlement (b). By that section it is required, that in addition to the allowance of the indentures by the justices, such justices or some one justice, shall examine whether the rules, orders, or regulations of the commissioners, in force for the binding of poor children apprentices, have been complied with, and shall certify the same at the foot of the indenture and counterpart, in such form as the commissioners shall direct; and until so certified no indenture shall be valid.

3. *Settlement by serving an office* cannot be *acquired* in future, but settlements of this kind acquired before the passing of the Act are not affected by it (c).

(a) See *ante*, p. 2, n. (a) (b) See *post.*, note to 15th sect.

(c) Sect. 64.

4. *Settlement by coming upon a tenement*, which already by former Acts was so altered that its ancient name is hardly appropriate to it, is further altered by the present Act; for by the 66th section it is enacted, “That after the passing of this Act no settlement shall be *acquired or completed* by occupying a tenement, unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same, in respect of such tenement, for one year.” So that now, not only must the tenement consist of a house or building, or of land, or both (*a*),—which prevents settlements in respect of any easement or incorporeal tenement—and not only must the person who claims a settlement in respect of it, have rented it for a year at least, at the rent of 10*l.* at least (*b*), and have paid the rent himself (*c*), and have occupied it for the whole year, and that wholly and exclusively by himself (*d*); but now he must also be assessed for it one year to the poor rate, and have paid such rate for that period before he can in future gain this kind of settlement.

5. *Settlement by estate*. This mode of settlement is materially altered by the present Act; for by the 68th section, no person shall *retain* any settlement gained by virtue of any possession of any estate or interest in any parish, for any longer time than such person shall inhabit within ten miles thereof; and in case such person shall cease to inhabit within such distance, and thereafter become chargeable, such person shall be liable to be removed to the parish wherein previously to such inhabitancy he may have been legally settled, or in case he may have subsequently to such inhabitancy gained a legal settle-

(*a*) 59 Geo. 3, c. 50. (*b*) 6 Geo. 4, c. 57, s. 2. (*c*) 1 W. 4, c. 18.

(*d*) *R. v. Inhabitants of St. Nicholas, Rochester*, 5 B. & Adol. 219.

ment in some other parish, then to such other parish. Which provision, seemingly, affects not only persons removed more than ten miles off after the passing of this Act, but those also who, previous to the passing of the Act, had removed to such greater distance, and had not returned to an inhabitancy within it. For, the enactment restricts not only the mode of settlement, but the *adjudication as to the retention of any* such settlement, and a person is not to be *adjudged to retain* such settlement for any longer time than he shall inhabit, which is repugnant to an adjudication, that he retains his settlement, although since the passing of the Act he should not have so inhabited. This section, therefore, affects settlements of this kind existing on the 14th of August 1834, if at that time the pauper was inhabiting away from his estate more than the specified distance (*a*).

It may not be useless to observe that, the 68th section, relates only to settlements by estate, usually so called, that is, settlements in which the possession of an estate, that is, of a right to an estate, is the chief cause, and the forty days residence merely an accessory cause of the settlement; and hence it does not affect settlements by renting a tenement, which depend on several statutory conditions, in addition to the possession of, or coming to settle upon the tenement.

6. *Settlement by paying taxes* is not affected by the present Act (*b*).

(*a*) See *ante*, p. 2, n. (*a*), and *post.*, note to sect. 68.

(*b*) Mr. Archbold says, that this mode of settlement is taken away by the 66th section, and merged in that of renting a tenement. But I cannot accede to this opinion. The two settlements, according to all authorities, stand in the following relation to one another. A, is a house or land, in respect of which a settlement may be claimed, either in virtue of an occupation, or in virtue of the payment of cer-

CHAPTER II.

OF RELIEF.

1. RELIEF *quà* RELIEF.
2. RELIEF BY LOAN.

 1. *Relief qua Relief.*

The alterations made by this Act in the mode of relief, and the conditions on which it is to be given, have relation to single parishes, to unions, to the poor generally, and to particular classes; and their collective effect will be shown in the statement which follows:—

By the 9th Geo. 1, c. 7, s. 4, it was enacted, that poor persons refusing to be lodged, kept, or maintained in the parish-house, should not be entitled to receive relief from the churchwardens and overseers of the same parish. This was a restriction on the power which justices had under the tain taxes—reduced by statute to one or two of the taxes—upon it. The legislature, recognizing the co-existence of the two claims, modifies one of them by saying, a settlement shall not be claimed in future, unless the occupier shall have paid certain taxes: What taxes? All the taxes? no, the poor's rate. How then, can this destroy the co-ordinate claim of another person arising in virtue of the payment of the *land tax*? Suppose, also, the occupier does not pay, and is not rated to the poor's rate, but the owner pays, and is rated to all the rates and taxes: in such a case, though the occupier's claim is affected by the 66th section, the other party's seems not to be so; for his claim is in respect of payment, and the Act says not that the tax-payer shall occupy in order to have a claim in respect of his payment, but that the occupier shall pay in order to have a claim in respect of his occupation. As, therefore, this settlement stood before the present Act, so it stands now, insignificant indeed, abridged by former statutes.—See 2 Nolan, 122.

statute 43 Eliz. c. 2. By the 36th Geo. 3, c. 23, and the 55th Geo. 3, c. 137, this provision was qualified, or rather virtually repealed, for by these statutes were introduced the existing system of relieving, or compelling relief to be given to the poor indiscriminately at their own homes—even though they had refused to be taken into the workhouse—under the controlling authority of the justices. By the 2nd section of the 59th Geo. 3, c. 12, a power similar in effect as to the administration of relief, was given to the justices in parishes with either guardians or a select vestry. By the 53d section (*a*) of the present Act, these several provisions are repealed, and the administration of relief—except so far as the present Act introduces new qualifications—placed as it was under the first-mentioned statute and the 1st section of the last-mentioned one, that is, in the discretion of the overseers and parishioners (*b*), where there are only open vestries; and of the select vestries (*c*) and guardians in other places.

As the discretionary power of justices to order relief mainly depended upon the repealed Acts, their mere repeal would have enabled the overseers, guardians, and vestries in future, to refuse to relieve persons at their own homes or any where excepting at or in the workhouse. But another discretionary power, as to the mode and conditions of relief,—not, however, extending to individual cases,—is substituted for it, and vested in the commissioners, who are empowered to declare, (*d*) by rules, to what extent, and for what period, the relief to be given to *able-bodied persons* or their families,

(*a*) See *post.*, the note to this section, where the relative operation of these several Acts is stated more fully. See also *post.*, Gen. Int. View, p. 31, where they are explained more particularly with relation to the power of justices.

(*b*) See 9 Geo. 1, c. 7, s. 4.

(*c*) See 59 Geo. 3, c. 12, s. 1.

(*d*) Sect. 52.

in any parish or union, may be administered out of the workhouse, by payments in money, or in food or clothing in kind, or partly in kind and partly in money; and in what proportions, *to what persons, or class of persons*, (that is, to what persons or class of persons amongst the *able-bodied*, the former part being confined to the able-bodied only,)—at what times and places, on what conditions and in what manner, such out-door relief may be afforded: which rules,—subject only to a suspensive power for thirty days on special grounds of expediency (*a*),—are universally obligatory, and relief can be given only in accordance to them, excepting in the following cases; 1. that it is provided, that *in unions formed under this Act* relief may be ordered—which seems to mean relief of such kind as may be deemed necessary, either in money or goods—by any two justices to any adult person who, to the personal knowledge of one of such justices is unable from old age or infirmity to work, without requiring such person to reside in any workhouse (*b*); and 2. that by another section (*c*) in places where there are either guardians or a select vestry, (which is the case in all incorporations, and probably soon will be in all single parishes) (*d*), the overseers may, in cases of *sudden and urgent* necessity, give to the applicant, whether settled or not, temporary relief in articles of absolute necessity, but not in money; and the justices may order such relief,—that is, relief under the same restriction, relief in kind and not in money,—in case the overseers refuse it,—but not till an overseer has refused it; and 3. in case of *sudden and dangerous illness*, there is this further exception,—confined however it seems to places where there are

(*a*) As to this, see *post.*, Gen. Int. View, pp. 25, 37. (*b*) Sect. 27.

(*c*) Sect. 54.

(*d*) Sect. 39.

either guardians or a select vestry,—that any justice may order medical relief, but medical relief only.

It should also be mentioned here, that the 52nd section without authorizing, contemplates the possibility of a departure from the rules of the commissioners “in particular instances of emergency,” and provides, that if the relief so given,—that is given contrary to rule,—shall be in food, temporary lodging, or medicine, but not it seems if in money,—and shall have been reported to the commissioners in the manner prescribed, it shall not be disallowed, if otherwise lawful,—that is, if lawful but for the *rules* to the contrary.

Such is the law upon the mode of relief; and it overrides all local or general Acts of Parliament, in all parishes, unions, and incorporations (*a*).

These provisions however, relate to the poor generally, and to the general system of relief; and, therefore, on a well-established principle, it seems, do not apply to persons specially excepted out of the general system of relief by unrepealed special enactments. Thus, the relief of lunatic poor (*b*), of the poor in gaols (*c*), of infants born within the bills of mortality (*d*), being regulated by unrepealed acts in a special manner, is not affected by such of the provisions of this Act as respect relief generally; nor, it seems, would the mode of relieving militia-men’s families be affected by them, but that the 60th section of this Act repeals so much of the Act relating to those persons (43 Geo. 3, c. 47.) as provides for their relief in a special manner.

It must be mentioned (*e*) here, that by the 43rd section,

(*a*) As to the respective powers of the commissioners, assistant commissioners, guardians, justices, &c.—See *post.*, Gen. Int. View, chap. v. p. 20. (*b*) 2 Nolan, 408. (*c*) 7 Geo. 4, c. 39.

(*d*) 2 Nolan, 421.

(*e*) See note to sect. 43.

the visiting powers of the justices under the 30th Geo. 3, c. 49, are expressly reserved for all the purposes mentioned in that Act: amongst which is a power relating to relief, the power, where such justices find any of the poor in want of medical or other assistance, or of sufficient and proper food, to order such sufficient and proper food, or medical and other assistance, until the next quarter sessions: the effect of which reservation, it seems, is either to empower them to order a sufficient and proper supply, according to the rules of the commissioners, where the supply is not sufficient and proper, in consequence of these rules not having been complied with; or of judging from local observation whether the rules prescribe a sufficient supply, and making an order according to their judgment of its propriety and sufficiency; and the latter seems the correct construction;—the reasonable one it certainly is, for it may very well happen that food proper enough for the inmates generally, may not be so for some individuals (*a*).

2. *Relief by Loan.*

By the 58th section it is enacted, that the cost price of any relief, given to or on account of any poor person above the age of twenty-one, or to any part of his family under sixteen, shall be considered as a loan to such poor person, if any rule of the commissioners shall have declared and ordered it to be so: and in case of such order, it is to be so considered, whether a receipt has been taken for such relief or not, or any engagement or not been entered into. And in the case of relief to bastards it is specially provided, that relief given on their account shall be considered as relief given to their mother(*b*). And when

(*a*) See *post.*, Gen. Int. View, p. 31, as to the power of justices relating to relief.

(*b*) Sect. 71.

relief is given by way of loan, the wages of the pauper may be attached in the hands of his employer for its repayment (a). A new remedy also is given for the recovery of money ordered to be paid by relations (b).

CHAPTER III.

OF REMOVALS.

1. NOTICE OF ORDER.
2. APPEAL AGAINST ORDER.
3. HEARING OF APPEAL.
4. COSTS.

1. *Notice of Order.*

The practice of removal involves, 1. an application for an order of removal: 2. a notice and summons to the pauper for the purpose of being examined: 3. the order for his removal; up to which step the present Act makes no alteration (c). But, the practice having been to remove the pauper forthwith upon obtaining the order of removal, the 79th section provides, that after the 1st of November next, no person shall be removed till twenty days after notice of his having been chargeable has been sent by post or otherwise, from the overseers or guardians of the one parish to those of the other parish; nor be removed at the end of twenty-one days, if within that period a notice is *received* of appealing against such order; but in that case, the removal is to be postponed, and the order to be in abeyance, till either the appeal is determined, or

(a) Sect. 59.

(b) Sect. 78.

(c) See 2 Nolan, 206.

the time for hearing it is over; but, nevertheless, if the overseers or three of the guardians on behalf of the parish interested, agree within the twenty-one days to submit to the order, the removal may thereupon take place instant.

2. *Appeal against Order of Removal.*

With reference to the appeal, the 81st section requires, in addition to the notice of appeal, a written statement of the ground of appeal to be sent either with the notice of appeal, or fourteen days at least before the first day of the sessions at which the appeal is intended to be tried; but what sessions that should be is not stated. It seems, however, that it should be reckoned in the following manner: First, at all events the notice of appeal must be sent so as to be *received* within 28 days from the sending, which should be the *date* of the order. But it may very well happen, that to prepare a statement of the grounds of appeal, some time beyond the 28 days will reasonably be required. To the 28 days, therefore, such further number as a court would think reasonable for such purpose may be added: and then, the statement of the grounds of appeal being sent, 14 days more are to be reckoned for the respondent party. The appeal must be tried at the next sessions, the first day of which is after the 14th day has expired.

But on an appeal *after* removal (if one *after*(a) still lies), the statute by which the party aggrieved is required to

(a) It is a question at least of some doubt, whether the right of appeal *after* removal is not impliedly taken away by these provisions. It undoubtedly would be so in effect, should the Court hold, that the *party aggrieved* is now to be considered as aggrieved by the order and notice of the order of removal, or that in favour of the

appeal to the next sessions must be considered (a). The practice would be unaltered, but for the following provision, that in every case where notice of appeal shall be given, the appellants shall, with such notice, or fourteen days at least before the first day of the sessions at which the appeal is intended to be tried, send to the respondents a statement of the grounds of appeal. It appears, therefore, that the same notice as heretofore, that is, reasonable notice having been given, and either with such notice, or within a reasonable time after it, a statement having been made of the grounds of appeal, fourteen days further may be allowed to run on, and then comes the statutory regulation, that the appeal must be tried at the next sessions after these fourteen days have expired—which will sometimes happen to be not till the second sessions after the removal, and a sessions later than under the previous statutes.

To enable the appellants to prepare their statement, the 80th section entitles them at all proper times to have free access to the pauper for the purpose of examining him respecting his settlement: and if it is found necessary, for the purpose of examining him effectually, he may be taken out of the removing parish, but this will be at the expense of the appellants.

3. *Hearing of Appeals.*

The evidence and trial at the hearing of the appeal seem unaltered, except, that as the 81st section provides, that the appellant shall not be heard unless he has sent a statement of the grounds of appeal,—and that neither party shall go into any other grounds of pauper, it was manifestly intended, to relieve him from the hardship of being removed, till the justness of such removal is determined either by an admission or a judgment. (See note to sect. 79.)

(a) 2 Nolan, 490.

appeal or removal than those set forth respectively in the statement and examination, or order,—such statement, and examination must be proved, or in default thereof there can be no hearing, or at least the party who makes the default will not be entitled to a hearing: and this appears from the order of the provisions. *First*, the Act makes it imperative to send a copy of the order of removal and of the pauper's examination: next, it is imperative on the other side, to send a statement of the grounds of appeal; and next it is enacted, *that it shall not be lawful* to give evidence of any other matters than those contained in such statement and examination respectively; how, then, without having the examination and statement proved, can the court be sure of taking the evidence in a lawful manner; such proof therefore, must be required as a condition precedent to the hearing: or at least a contrary practice would not be conformable to the Act, even if the opposite party waived the objection (a).

4. Costs.

The provisions respecting costs apply to appeals both before and after removal. (b)

By the 82nd section, the court before which the appeal is brought may, if they think fit—it is, therefore, entirely discretionary with them—order and direct the parish against which the appeal is decided to pay to the other such costs and charges as may to such court appear reasonable, and shall certify the amount thereof;—that is, in case they think fit to allow them. And by the 83rd section, if either party shall have included

(a) Mr. Archbold gives a somewhat different opinion.

(b) See *ante*, p. 13, n. (a).

in the examination or statement sent as hereinbefore directed any grounds of removal or appeal which the court think frivolous and vexatious, such party—that is, such party, whether successful on the appeal or not—shall be liable, at the discretion of the court, to pay the whole or any part of the costs incurred in disputing such grounds. In both cases, the exercise of this power of granting costs is entirely discretionary. Indeed, the latter section alone is new; the former a mere repetition(*a*), in a somewhat less extensive form than the previous enactment on the same subject.

2. As to costs of maintenance, the 84th section provides, that if notice of the order of removal is given within ten days after the making of such order, but not else, the costs of maintenance, from the time the notice is given, shall be borne by the parish to which the pauper is either adjudged or admitted to belong—that is, if such notice is given and the appellants fail, they are to pay to the respondents the costs of maintenance from the time of the notice; and as to these costs the court have no discretion. The whole alteration, therefore, made by this Act as to costs is—1. That costs may be allowed against either party as to such of the grounds stated as appear frivolous or vexatious. 2. If the respondents succeed, the costs of maintenance are given to them by the statute, if they have sent notice of the order of removal within ten days after they have obtained it. The costs allowed may be recovered, as penalties are by this Act recoverable. In every other respect the law as to costs is unaltered (*b*).

(*a*) 2 Nolan, 571.

(*b*) 2 Nolan, 576.

CHAPTER IV.

OF BASTARDY CASES.

The present Act supersedes all the previous statutory provisions respecting the indemnity and security of parishes against the charge of bastards ; but it applies only to future-born bastards (*a*). As to such bastards, the securities commonly taken heretofore before the birth, upon the complaint or charge, either of the overseer or mother, can no longer be required, nor are the mother or father any longer liable to be punished. After the birth also, no order of affiliation can be made against the putative father, nor any order of maintenance until the child has become actually chargeable. But when the child becomes actually (*b*) chargeable, the overseers or guardians, (as the case may be), may, after diligent inquiry as to the father of the child,—(which must mean, after a diligent inquiry with a view to ascertain the credibility of the mother's story),—apply, but not without giving him fourteen days previous notice (*c*), to the next court of quarter sessions for an order upon him to reimburse the parish for its maintenance and support.

The putative father either appears at the sessions or not,—but whichever,—the court may proceed to hear the application (*d*),—with this only difference, that if he does not appear, it must be proved to the court, that the required

(*a*) Sect. 69.(*b*) Sect. 72.(*c*) Sect. 73.

(*d*) Sect. 74. Mr. Archbold says—“ If the putative father appear at the sessions, the court, on proof of the notice, may proceed to hear evidence.” But appearance admits the notice, and supersedes the necessity of proving it.

notice, (fourteen days) of the intended application was duly served upon him. The application then must be supported by proof of the child having become actually chargeable, of the amount expended for its maintenance, of the mother's inability to maintain it, of its future probable cost, and that the party who is before the court, or to whom the notice has been given, is the father of it; but upon this latter point, the mother's evidence, which has commonly been the only evidence, is not to be sufficient alone; but must be corroborated in some material particular, by other testimony,—which means the testimony of some other person,—and if not so corroborated, the court is to dismiss the application, and not make an order. But, if the court, on the other hand, be satisfied that the person charged is really and in truth the father, it shall make such order (*a*) upon him, as to such court shall appear to be just and reasonable, but not to exceed, in any case, the actual expence incurred—that is, incurred for the child alone, not reckoning the relief to the mother,—or to be incurred, while the child remains chargeable; nor to remain in force after the child shall have attained the age of seven.

No part of the money paid under any such order, is to be paid to the mother, nor to be in any way applied to the maintenance and support of the mother (*b*).

If the payments fall in arrear at the end of a month after the making of the order, the party may be brought under the warrant of any one justice, before any two justices, who may enforce the arrears by distress and sale of his goods, or by attaching his wages in the hands of his master (*c*), but not by any proceeding to recover his rents and profits (*d*).

(*a*) Sect. 72.

(*b*) *Ibid.*

(*c*) Sect. 76.

(*d*) The special remedy given by the 13 and 14 Car. 2, c. 12, s. 19,

If a party whom the overseers or guardians have determined to charge as the putative father, is suspected by them of intending to abscond, in order to avoid the consequences of the application, he may be summoned before a justice to give security for his appearance, or in default thereof (when required) the justice may commit him (*a*): but this proceeding is not to be till after the application has been determined on,—and therefore, it seems, not till after he has had notice of the determination; for, without such notice, the suspicion of his intending to abscond, in order to avoid the contingent possibilities, is a violent presumption.

If on an application of the above kind an order is made, the putative father may appeal to the next quarter sessions, that takes place more than a month after the order is made,—whether that is the next sessions, as it sometimes will be, or is the second sessions. But fourteen days' notice of appeal, and of the grounds of appeal, must be given, and within five days after the notice the appellant must give security to try it, and to pay such costs as shall be awarded (*b*).

On the mother is cast, by an express provision, the general obligation of maintaining her illegitimate children, until the age of sixteen, or, if females, until they marry (*c*):—the principal effect of which is, that until these periods, the mother is liable for all relief given to them, whilst the father, under the above provisions, cannot in any case be charged after the child is of the age of seven.

By the 70th section, all securities and recognizances held at the time of the passing of the Act, for the indemnification (see 2 Nolan, 336,) is repealed, (see note to sect. 69) and the above remedy substituted for it.

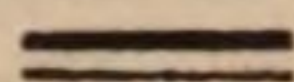
(*a*) Sect. 75.

(*b*) Sect. 103.

(*c*) Sect. 71.

tion of parishes, in respect of children not then born, are declared null and void : and persons in custody for not giving security under such circumstances, may be discharged by any one of the visiting justices.

It must be added, however, that all the provisions of this Act, relating to bastards, are confined to cases where they are born after the passing of this Act. And that as to those born before, the law remains unaltered, and the same procedure may be had as formerly.



CHAPTER V.

OF THE PERSONS BY WHOM THE POOR LAWS ARE TO BE ADMINISTERED.

1. COMMISSIONERS.
2. ASSISTANT COMMISSIONERS.
3. GUARDIANS AND VESTRIES.
4. JUSTICES.
5. OVERSEERS AND CHURCHWARDENS.
6. PAID OFFICERS.

1. *Commissioners.*

By the 15th section, the administration of relief to the poor *according to the existing laws*, is subjected to the direction and control of three Commissioners, styled “the Poor Law Commissioners for England and Wales”(a); and for the purpose of exercising this control, and carrying this Act into execution, these commissioners, or any two of them, sitting as a board (b), may, from time to time, make such rules(c) and orders as they think fit, subject only to

(a) As to their appointment and removal, and the duration of their offices, see sects. 1, 10, 11, and notes.

(b) Sect. 2.

(c) As to these rules, see sects. 3, 16, 17, 18, and note to sect. 16.

the already expressed restriction, namely, that so far as any rule relates to the administration of relief,—and every rule it seems would fall within the compass of this expression,—it must be according to the laws in force for the time being ; and therefore, according to the express provisions of this Act, and of all other Acts not repealed by this Act, either expressly or by necessary implication (*a*): to secure which conformity with the law, such rules are removable into the Court of King's Bench (*b*).

Besides investing the commissioners in general terms with the power of controlling the administration of relief, and giving them special instruments, the 15th section (*c*), by way of amplification, and, as it were, of instruction, specifies various subjects over which such control, by means of such instruments, may be exercised. These subjects are the following :—the management of the poor,—the government of workhouses,—the education of children therein,—the management of parish children under stat. 7 Geo. 3, c. 39,—the superintending, inspecting, and regulating the houses wherein they are kept and maintained,—the apprenticing of poor children,—the guidance and control of all guardians, vestries, and parish officers as to,—(in effect all their functions)—the management or relief of the poor,—the keeping, examining, auditing, and allowing of accounts,—the making and entering into contracts,—and all other things involved in the execution of this Act.

Thus far, nearly, the whole system of poor law administration as it existed previously to this Act, is put under a control to be exercised by the commissioners, by means

(*a*) For the argument in support of this interpretation, and a detailed view of its effect in practical administration ; see *post.*, note to sect. 15.

(*b*) Sect. 105.

(*c*) See note thereto.

of general rules and orders. Still further are their powers extended by various special provisions, for the effectuation of alterations as to the local divisions in which relief is given, the local authorities under whose immediate direction it is given, the appointment of paid agents, and the establishment and preparation of workhouses incidentally necessary under the contemplated system.

Thus, one set of sections having provided for the constitution of boards of guardians (*a*), another empowers the commissioners to order parishes either singly or in unions to elect them (*b*). And further to enable the commissioners to supersede previous local boards and authorities, the 41st section enacts, that "so far as the commissioners shall direct," "all elections of guardians, visitors, and other officers, now regulated either by the 22 Geo. 3, c. 83, (Gilbert's Act,) or by any other special Act, either general, or local, shall in future be made (*c*) according to the provisions of this Act relating to the election and constitution of boards of guardians." In like manner, in most if not all cases, where there is no select vestry, nor board of guardians, the powers formerly exercised by the parishioners in open vestry, will, on the motion of the commissioners (*d*), be exercised by the rate-payers and owners voting according to the 38th section of this Act.

As to local divisions also, where unions exist, the commissioners may, with the consent of guardians, either dissolve them, or add to them, or take away from them (*e*); and where none exist, may, as they see fit, declare so many parishes as they think fit to be a union (*f*).

(*a*) Sects. 38, 40.

(*b*) Sects. 38, 39.

(*c*) As to the construction and practical working of this provision, see *post.*, note to sects. 40, 41.

(*d*) Sect. 23.

(*e*) Sect. 32.

(*f*) Sect. 26.

In the formation of new unions, to the commissioners belongs the power of ascertaining and fixing on the parishes comprised therein, their different proportions of contribution as to certain of the expences (*a*) of the unions; they have also the power of correcting the proportions of contributions fixed under former acts in existing unions; and in the latter cases they may at discretion depart from the arithmetical results of their inquiries, to make allowance for inequalities of burden arising out of contrivance (*b*).

The commissioners also may alter or rescind any bye-laws or rules of existing unions, whether those bye-laws are contained or not in any Act of Parliament, and may make new rules specially for such unions (*c*), and no rules or bye-laws without the consent of the commissioners, can be made or altered by guardians under any previous Act of Parliament (*d*). All the existing building powers relating to workhouses, are placed under their control and dominion, not to be exercised without their consent, and only to be exercised with their approbation (*e*). Certain of these powers also are given to the commissioners, to be exercised by them to a certain extent, as their own original and absolute powers (*f*), not liable to be restricted by local opposition.

By the 46th section, the commissioners also are empowered to order the appointment of paid officers, either for any single parish, any number of parishes, or number of unions, or by any other combination of these local divisions. The commissioners also are to fix the qualifications of these officers, to prescribe their duties, their districts, the security to be required from them, the period of their con-

(*a*) Sect. 28.

(*b*) Sect. 29, and see note to that sect. (4).

(*c*) Sect. 42. (*d*) Sect. 22. (*e*) Sect. 21, and see note thereto.

(*f*) Sect. 25.

tinuance, and the causes of their dismissal from office. The commissioners also are to regulate their salaries (*a*), and prescribe in what proportions these salaries shall be paid by the different unions or parishes (*b*).

As ancillary to their general powers, the commissioners are authorized to summon persons before them, to examine such persons on oath, to administer the oath, to require the production and verification of books, writings, and contracts, and to make any sort of inquiry relating to the administration of the poor laws (*c*). They may not, however, act as a court of record; consequently cannot commit for contempt, but for this offence,—the very name of which is a disgrace to the nomenclature of our criminal jurisprudence,—they may send a party before any two justices (*d*).

By the 85th section, as to any kind of property held in trust for the parish, the commissioners may make inquiries analogous to those of the charity commissioners, as to charity estates generally. They may allow the expences of witnesses, and all other expences incidental to their inquiries (*e*).

They must keep a daily record (*f*) of their proceedings, and once a year make up a general report (*g*); both to be submitted annually to a secretary of state, and the latter to be laid before Parliament (*h*); and at all times they must give to any secretary of state such information respecting their proceedings as he may require (*i*).

(*a*) As to the manner in which these salaries are to be recovered, see *post.*, note to section 46.

(*b*) As to paid officers, see *post.*, Gen. Int. View, p. 38. (*c*) Sect. 2.

(*d*) Sect. 98, see also note thereto. (*e*) Sect. 14, see also note thereto.

(*f*) Sect. 4. (*g*) Sect. 5. (*h*) *Idem.* (*i*) Sect. 6.

2. *Assistant Commissioners.*

The commissioners are empowered to appoint nine persons, or such greater number as the treasury may consent to, to be assistant commissioners (*a*): to delegate to them such of their powers, except the power to make general rules, as they may think proper (*b*): to revoke or alter the delegation: besides these powers to be possessed by delegation, the Act empowers the assistants, subject of course to the direction of the commissioners, to exercise powers of inquiry (*c*) respecting poor law matters, analogous to those given to the commissioners. Disobedience to their summons upon such inquiry, or for any other purpose is a misdemeanor (*d*). They may attend at all local boards and vestries, to take part in the discussions, but not to vote upon them (*e*). They may also make rules, which, however, are merely nominally their rules, as they are not to be in force, till adopted by, and sealed with the seal of the commissioners. It may be anticipated, that the only rules which the commissioners will issue, not of the class of general rules, will be these rules of the assistant commissioners: though, when these also relate to more parishes than one, they will be general rules, so as to be subject to all the provisions of this Act relating to the latter: and when not general rules, it seems they will still in certain respects, be like them, and will not come into force till fourteen days after they have been sent to the parties.

3. *Guardians, Select Vestries, and Open Vestries.*

The guardians at present existing, are constituted either under the stat. 22 Geo. 3, c. 83, (Gilbert's Act,) or under

(*a*) Sect. 7. (*b*) Sect. 12. (*c*) *Idem*. (*d*) Sect. 13.

(*e*) Sect. 21. As to their oath, removal, duration of office, filling up of vacancies in their number, &c., see sects. 7, 10, 11.

local acts, some for single parishes, some for unions. The 41st(*a*) section of this Act provides that, where the commissioners shall direct, such guardians shall in future be elected—in effect not according to those Acts, but—according to its provisions: but until the commissioners give such direction, the guardians will continue according to their particular acts of incorporation.

Single parishes without a local act have never been governed by boards of guardians (*b*), for Gilbert's Act, the only general Act authorizing such a government, had in view merely the formation of boards for unions. The present Act enables the commissioners to direct single parishes to elect boards of guardians. The select vestries of single parishes, (under 59 Geo. 3, c. 12,) may, it seems, be superseded under this provision.

In most cases in which there is no select vestry, and consequently the parish business is done in open vestry, the commissioners have the power of superseding the authority of the open vestry, by taking the consent—where any consent is required—of the owners and rate-payers, according to the 38th (*c*) section. This also seems the case in some instances, even where a select vestry has been established.

In every case in which the commissioners order a union of parishes, the Act requires the appointment of a board of guardians (*d*),

These guardians are of two kinds, elective guardians, and ex officio guardians (*e*).

In the appointment of guardians under the present Act,

(*a*) See note to that section.

(*b*) For the purpose, however, of construing this Act, select vestry men are to be considered as guardians. (See sect. 109.)

(*c*) See note to this section.

(*d*) Sect. 38.

(*e*) *Idem*.

there is to be for each parish in every union, at least one guardian; but the total number of guardians—subject only to this condition—the commissioners are to fix according to the circumstances of each case.

The Act prescribes as a necessary qualification for an elected guardian, the being rated to the poor rate within the union (*a*); which, in effect, disqualifies such owners as are not rated from being guardians. The commissioners are to fix the amount of such qualification (*b*); they cannot, however, fix it higher than a forty pounds rental (*c*). One disqualification imposed by the Act (*d*),—that no person shall be eligible to any parish office, or have the management of the poor in any way whatever, if he has been convicted of felony, fraud, or perjury,—seems to extend to elections of guardians.

A person elected guardian one year, may be re-elected the next (*e*); and the same person may be guardian for different parishes (*f*); though whether for different parishes of the same union, is perhaps debateable;—the question depending, it seems, on the force of the provision, that each parish shall have at least one guardian,—which,—undoubtedly as far as it relates to the power of the commissioners to fix the number, means, each parish one person at least for a guardian, but which regarded as a privilege of the parishes, may equally be fulfilled by several parishes having the same person for guardian.

Every justice of the peace resident within the parish or union, if also acting for the county or division is *ex officio* a guardian (*g*).

The appointment of guardians is to be annual (*h*), but the commissioners may vary the period (*i*), with the consent

(*a*) (*b*) (*c*) Sect. 38.

(*d*) Sect. 48.

(*e*) (*f*) (*g*) Sect. 38.

(*h*) (*i*) Sect. 38.

of the persons who make the election. Vacancies in their number from any cause, are not to be filled up until the following periodical election (*a*).

The mode of election, the persons competent to elect, the number of votes to belong to them, are fixed by the 40th section. The votes are to be given or taken in writing: they are to be collected in such manner as the commissioners shall direct,—that is, they need not be collected in vestry,—but may be collected either in vestry or in any other manner.

The persons entitled to vote are the rate-payers, and owners of rated property. The owners are to vote on the ascending scale described in 59 Geo. 3, c. 69, (the Select Vestry Act, commonly called Mr. Sturges Bourne's,)—which was, but is no longer, the scale of the rate-payers,—of one vote for the first fifty pounds, and one vote for every twenty-five pounds after, till six votes, the maximum allowed to any owner. Rate-payers rated under two hundred pounds, are to have one vote; above two, and under four hundred pounds, two votes; and three votes, (the maximum in their case,) when rated at above four hundred. The owners, but not the rate-payers, may vote by proxy.

In the right of control given to the commissioners is involved, of course, the obligation of obedience, and therefore it is the common duty of all boards of guardians to obey the rules, orders, and regulations, of the commissioners (*b*), though, even this duty, in the case of rules relating to relief, is qualified by a discretion, to delay their operation for a certain time, when on consideration of any special circumstances, the guardians deem their enforcement inexpedient. Cases of emergency also are anticipated, in which it seems a departure from this portion of the rules

(*a*) Sect. 38.

(*b*) Sect. 15, and note thereto.

will be excused, if the relief given contrary to rule in such cases shall have been in food, lodging, or medicine,—but not it seems, if in money. One of the powers of the commissioners is to prescribe the duties of the guardians (*a*)—which must mean, to prescribe certain particular duties—or the divisions of duties—for the Act itself prescribes their general duties. They are to preserve and give publicity to the rules and orders and the counter rules of the commissioners (*b*); to allow inspections and copies of the rules (*c*). Subject to these rules, they are the governors of workhouses; the administrators of relief (*d*); have the control over it, so far that no overseer can give other relief than what they prescribe, except in one or two cases (*e*). They are the immediate superiors, and, subject to the orders of the commissioners, have the appointment of all paid officers (*f*).

In Gilbert's incorporations, and under some of the local Acts, the overseers have no power of interfering in the care and management of the poor, except under the board of guardians. This regulation is now extended to all places, where there is either a select vestry, or vestry under 1 & 2 W. 4, c. 80, (Hobhouse's Act,) or a board of guardians; for by the 54th section, in such places, the ordering, giving, and directing of all relief, (subject to the powers of the commissioners,) shall belong exclusively to such vestries or guardians, nor can an overseer give any other relief than what these bodies allow, except in cases of sudden and urgent necessity, when, whether the applicant be settled or not, he is allowed a discretion to give relief in articles of absolute necessity, but not in money.

Upon the consent of the guardians, depends the exercise of some of the powers of the commissioners—the power of

(*a*) Sect. 38.

(*b*) Sect. 18.

(*c*) *Idem*.

(*d*) Sect. 38.

(*e*) Sect. 54.

(*f*) Sect. 46.

ordering any workhouse to be built, or land procured for that purpose, where a parish has not one (*a*). Upon their consent depends the *extent* to which other of the powers of the commissioners can be exercised—the power of ordering the necessary alteration of any workhouse (*b*). Without their consent the commissioners can only adapt existing workhouses, and that only within a certain expence (*c*); with their consent, to a larger but still restricted amount, they may put in motion every power relating to the building or adapting of any workhouse. Without their consent no union can be dissolved, or parishes added to, or taken from it (*d*).

The elected guardians and ex officio guardians, have most duties and powers in common; but some belong only to the elected guardians, though these share every duty and power of the ex officio guardians.

The elected guardians have the power (subject to the control of the commissioners), of agreeing,—so many of them as can,—that their parishes shall be united for the purpose of having union settlements instead of parish settlements (*e*). The elected guardians may also agree,—so many of them as can,—that their parishes shall be united for the purpose of being rated in one common rate for the whole union (*f*): and in that case they have also the power to make the necessary valuation and assessment (*g*).

From these last mentioned powers,—which seem to be bestowed on the elected guardians in the character of representatives,—the ex officio guardians are excluded.

The ex officio guardians also, though justices, are forbidden to act as such whilst sitting as members of any board of guardians (*h*).

(*a*) Sect. 23. (*b*) (*c*) Sect. 25. (*d*) Sect. 32. (*e*) Sect. 33.
 (*f*) Sect. 34. (*g*) Sect. 35. (*h*) Sect. 38, and note thereto.

The peculiar power of the ex officio guardians seems to be merely that upon the formation of any union, all the powers of a complete board of guardians are to be exercised by the ex officio guardians, until the election of guardians (*a*): and in any subsequent interval during which there are no elected guardians, the ex officio guardians are to act as a full board of guardians; but they cannot, in such cases exercise any of the powers specially given to the elective guardians. In addition to the existing means of borrowing, guardians may now borrow of the exchequer loan commissioners (*b*).

4. *Justices.*

The changes that have been made in the jurisdiction of the justices to order relief (*c*), have been effected, partly by the repeal of the statutes 36 G. 3, c. 23, 56 G. 3, c. 137, ss. 3, 4, and 59 Geo. 3, c. 12. ss. 2, 5; and partly by the various substantive provisions in this Act on that subject.

First, as to parishes,—whether united or not,—that have a select vestry, under the vestry statute 1 & 2 W. 4, c. 80, (Hobhouse's Act) or a board of guardians under Gilbert's Act, or any local Act, the power of the justices to order relief, where the vestry or guardians had refused it, was given by the second section of the statute 59 G. 3, c. 12. This section being now repealed, the justices, in consequence of such repeal, have no longer that power, and in addition to the effect of this repeal, the 54th section of the present Act, expressly enacts, that after the passing of this Act, the *ordering*, giving, and directing of all relief to the poor of any parish, under the government of any guardians of the poor, or select vestry, or vestry under 1 & 2 W. 4, c. 80, —whether forming part of any incorporation or not,—shall

(*a*) Sect. 38, and note thereto. (*b*) Sect. 63. (*c*) Sect. 53.

belong *exclusively* to such guardians or vestry,—that is, to them, exclusively of the justices.

Secondly, as to parishes that have no select vestry, or board of guardians;—and as to cases therein in which relief had been offered by the overseers on condition of the applicant going into the workhouse, and he has refused to go into the workhouse,—the power of the justices to order relief, depended mainly on the statute 36 G. 3, c. 23, which operating as a repeal of the statute 9 G. 1, c. 7, s. 4, re-entitled paupers, (who had been disentitled by the latter statute,) to relief at their own homes, notwithstanding they had refused to go into a workhouse:—then came the subordinate provisions of the 55 G. 3, c. 137, ss. 3, 4, and 59 G. 3, c. 12, s. 5, merely regulating the manner in which the power of ordering relief should be exercised. The repeal of the first of these statutes, the 36 G. 3, c. 23, revives the 9 G. 1, c. 7, s. 4, as to applicants for relief, who have refused to go into the workhouse: and such persons, therefore, are disentitled to relief, and relief to them cannot be legally ordered by the justices.

But thirdly, as to parishes that have no workhouse,—and even as to parishes that have, so far as applicants are concerned, to whom no offer has been made to take them into the workhouse,—the power of the justices to order relief, remains as under the statute 9 G. 1, c. 7, s. 1, and the previous statutes,—(except so far as the power of the commissioners affects it;)—and this power,—that is, the power of the justices to order relief so far as the mode of exercising it is in question—is as follows; that the justices shall not order relief without an oath from the applicant of his having been refused by *two* of the overseers, nor without also some reasonable cause being shown for granting relief, nor without summoning the *two* overseers to show cause against it.

On the 36 G. 3, c. 23, s. 1, seems to have depended the power of a *single* justice to order relief, and the repeal of this statute, and of the subsequent provision to the same effect, 55 G. 3, c. 137, s. 3, takes from a single justice, and vests only in petty sessions, the power—such as it is—still remaining notwithstanding the present Act, with the justices:—and what is this power since the present Act? It seems to amount to no more, than that the justices at petty sessions may,—in the cases alluded to, and in the parishes alluded to,—but in those only,—summon the overseers, but may not order relief to be granted, otherwise than according to the rules of the commissioners, nor order it at all, if it has been refused under the authority of the rules of the commissioners (*a*).

The present Act having thus abridged the previous power of the justices, provides for certain special and excepted cases in which it allows them to order relief,—and this, it seems, without reference to the rules of the commissioners: these exceptions are,—first (*b*), that, *in unions formed under this Act*, two justices acting for the district, may order relief to be given to any adult person, who, to the personal knowledge of one of them, is, from old age or infirmity of body, wholly unable to work, and without requiring him to reside in a workhouse; secondly (*c*), that *in places under the government and control of guardians, or of a select vestry*,—but, it seems, in such places only,—where, in any case of sudden and urgent necessity, the overseers shall have refused the temporary relief, which by the 54th section, they are empowered to give,—and which is relief in articles of absolute necessity, but not in money,—any

(*a*) This is a clear consequence of the general powers of control given by sect. 15. See note to that section.

(*b*) Sect. 27.

(*c*) Sect. 54.

Justice may order it to be given, whether the applicant is or is not a settled parishioner; and thirdly(*a*), that any justice may order medical relief, where any case, whether of a parishioner or out-parishioner, of sudden or dangerous illness may require it. The first of these powers, it is seen, can be exercised only by two justices, only in unions formed under this Act, and only in favour of settled parishioners; the second may be exercised in places that have guardians or select vestries, by one justice, and in favour both of parishioners and non-parishioners: the third, I think, may be exercised any where.

Over other parts of the poor law system, not immediately relating to relief, they retain some of their previous, and acquire some new, functions.

As to the binding of parish apprentices, the statutory provisions on this subject being unrepealed, and no power being given to the commissioners, as it seems, to dispense with them (*b*), the justices retain this part of their jurisdiction. The 61st section, recognizes as still necessary, "their assent, consent, order, or allowance," of the indentures, though it also requires them to certify, at the foot of the indentures, whether the rules of the commissioners have been complied with,—so that, a compliance with the rules without their assent also would not make the indentures valid.

The powers of justices also under the statute 30 Geo. 3, c. 49, of visiting workhouses for the purposes therein mentioned, are expressly reserved to them, and are enlarged for the further purpose of their seeing whether the rules of the commissioners have been observed, and of proceeding summarily for their non-observance, against the offenders. And for this purpose,—of seeing whether the rules of the commissioners have been observed,—in conjunction with

a) Sect. 54.

(b) See note to 15th section.

the original purposes, they are empowered to visit *all* work-houses, even those managed under special Acts, or in incorporated districts. It is remarkable, that amongst these reserved powers, is one, by which any visiting justice, if he find any of the poor in the workhouse, in want of sufficient and proper food, may certify his opinion to that effect, to any other justice, and the two may make such order for the immediate procuring of sufficient and proper food as they may think proper, until the next quarter sessions, when upon a certificate of the fact from the visiting justices, the sessions may make such order as they think proper:—and this being a special power, specially reserved, it would seem that it may either operate as another exception on the rules of the commissioners, enabling the justices and other persons to whom the like visiting powers are reserved, to order food not allowed by the rules, in consequence of special circumstances: or it may only operate to enable them to see that the food is “sufficient and proper food,” according to the intention of the commissioners (*a*).

Incidental to the carrying the provisions of this Act into execution, is the duty of deciding between the parish and the poor, on application by the guardians or overseers to compel payment for such relief as has been ordered to be considered a loan: in such case the justices may attach wages in the hands of employers (*b*), and may enforce payment from the employer when necessary. As against the defendant, this power is only to attach, but as against the employer, it is a power to proceed so far as any thing is due, as for the recovery of penalties and forfeitures (*c*) if he disobeys the attachment.

(*a*) Sect. 43.

(*b*) Sect. 59.

(*c*) Sects. 101, 103.

In the constitution of boards of guardians under this Act,—and the commissioners are empowered to direct all guardians in future, to be appointed according to this, instead of any former Act (*a*),—every justice resident within the jurisdiction of such board, if also acting for the county or division, is to be *ex officio* a guardian (*b*); but they are not to act at the boards as justices, unless ordered by the commissioners, but only as guardians (*c*). In the intermediate period between the order of the commissioners for the formation of a union and the appointment of the elective guardians, the *ex officio* guardians are to have all the powers of a full board of guardians, excepting such as are expressly given to the elective guardians, in the character of elected guardians, and the same power also if at any subsequent period it happens from any cause that legally there are no elected guardians. In some other respects, the justices, in the capacity of *ex officio* guardians, are distinguished from the elected guardians. Their consent, it seems, is not necessary, nor their dissent of any effect (*d*), but the elected guardians are alone competent, in the exercise of the powers created in the 33rd and 34th sections, the one being a power for the guardians to agree that the settlements of any number of parishes shall be in future union settlements, instead of parish settlements; and the other a power for their parishes to be rated to a common rate, instead of being rated for their several separate proportions. They are, however, entitled to vote for the purpose of giving their consent or dissent, as to the exercise by the commissioners

(*a*) Sect. 41. And see note to sect. 29, *as to the election of guardians for existing corporations.*

(*b*) Sect. 38.

(*c*) As to this, see note to the 33rd section.

(*d*) *Idem.*

of the powers of dissolving, adding to, or taking from, any existing union (*a*).

5. Overseers.

In considering the powers of overseers as to relief, the distinction must be retained between places having a board of guardians, select vestry, vestry under the 1st & 2nd William IV., c. 80, and places in which there is no such board or vestry; for as to the first, all the previous power of the overseers relating to relief—where they had any power of this kind—has been taken away from them, and such power, where it was not so vested before, vested *exclusively* “in the vestry and guardians:” excepting that, in cases of sudden and urgent necessity, the overseer is expressly empowered by this Act to give such temporary relief—whether the applicant be settled or not—as the case may require, in articles of absolute necessity, but not in money (*b*).

In the three cases in which justices are empowered to order relief, overseers are bound to obey the justices’ order: that is, first, when in the above case of sudden and urgent necessity, the overseer has refused relief, and a justice has afterwards ordered it (*c*). Secondly, in the case of sudden and dangerous illness, when medical relief is ordered (*d*). Thirdly, when, in any union formed under this Act, an adult person, to one of the justices’ own knowledge, is wholly unable to work, from age or infirmity, and relief is ordered by two justices to be given to him out of the workhouse (*e*).

In parishes that have not a select vestry, vestry under Hobhouse’s Act, or board of guardians, the overseers will

(*a*) Sect. 32.

(*b*) Sect. 54.

(*c*) Sect. 54.

(*d*) *Idem*.

(*e*) Sect. 27.

continue to have the administration of relief, subject, as is described in the last title, to the order of the justices in certain cases, and subject in all cases to have their powers abridged, and the exercise of all their powers regulated—as to relief and every thing else—by the commissioners.

In the case in which guardians are empowered to delay the application of any of the rules of the commissioners—that is, when on consideration of any special circumstances they deem their enforcement inexpedient—overseers have the same power of delaying, for the same reasons and under similar circumstances, their application in parishes where there are no guardians or select vestry (*a*). But, in such cases, within ten days after the receipt of such rules, the overseers are to report the special grounds of the delay to the commissioners, and meanwhile, until an answer to such report is returned, they may give relief as if such rules had not been issued: but such rules must be obeyed ultimately, if the commissioners so order (*b*).

Cases of emergency also are anticipated in the Act—in which the rules will be departed from (*c*);—such cases, with the particular nature of the emergency, and grounds of departure, must be reported by the overseers to the commissioners, within fifteen days after: and if the relief so given,—that is, given in such emergency, contrary to rule,—shall have been in *food, temporary lodging, or medicine*, and shall have been so reported, it is not to be disallowed in the accounts;—but from this specification of “food, lodging, and medicine,” it seems to follow, that relief contrary to rule—even in a case of emergency, would be liable to be disallowed, were it to be given in any thing else,—given, for instance, in money (*d*).

(*a*) Sect. 52. (*b*) *Idem.* (*c*) *Idem.* (*d*) See *ante*, p. 29.

As a check on the local administration of relief, it is required, that as soon as the commissioners shall direct, there shall be a registration of relief, whether granted at, in, or out, of a workhouse, and that the register shall contain the names of the persons relieved, and such particulars respecting their families, settlement, relief, and employment, as the commissioners shall direct (*a*). In parishes which have not guardians, or a close vestry, this duty as to out-door relief will have to be performed by the overseers,—until at least the customary overseers are superseded by paid officers. As to relief in the workhouse it will fall on the masters, or some other paid officers.

In parishes that have not a close vestry or board of guardians, the overseer it seems, retains as to all those special acts,—such as the building of workhouses,—which required formerly the consent or vote of the parishioners in open vestry—the same relative powers and duties as formerly,—till superseded by paid officers; the difference in such cases being chiefly, that under the present Act, the owners and rate-payers voting according to the 38th section, are substituted for the former vestries, and that when these parties have given their consent, (where necessary), the overseers will act under the immediate rules and orders of the commissioners.

Without the consent, however, of the local authorities of any kind, the commissioners may order the enlargement or alteration of workhouses within a certain limited expence; these orders will be new and will be addressed to overseers, in parishes that have no board of guardians. To them also, in such a case, would be addressed the orders of the commissioners to raise the necessary compensations, when any parish is separated

(*a*) Sect. 55.

from any union (*a*): and if these orders are to be executed by the overseers without a vote of the rate-payers, they will *pro tanto* be new in their kind, and an extinction of a privilege hitherto belonging to parishioners in vestry.

It would be endless to enumerate the miscellaneous duties of overseers. They are to enter in the rate-books the names of the owners, or their proxies, who wish to avail themselves of the right of voting for guardians, or other purposes to which this privilege is extended (*b*).

They are to preserve and give publicity to all rules, and orders, and counter rules, and to allow inspections of them free of charge, and copies to be taken, or to give copies at certain specified prices (*c*). As heretofore they are to account annually (*d*), and where the rules of the commissioners shall have come in force, they are to account quarterly or oftener (*e*), to the guardians or other authorized persons, where there are guardians, and where there are not, to the justices in petty sessions.

In making contracts the overseers,—when that duty belongs to them; as it will where there are no guardians or select vestry,—are to make them according to the rules of the commissioners; or they will be void, and all payments will be disallowed in the accounts, in respect of such contract (*f*). The statute 45 Geo. 3, c. 54, by which overseers were obliged to make certain of their contracts with parishioners is repealed, and therefore, until the rules are issued, the overseers can go out of the parish, and supply themselves at the best market (*g*), but they must not themselves have any interest in any contract on behalf of the parish (*h*).

(*a*) Sect. 32. (*b*) Sect. 40. (*c*) Sect. 12. (*d*) Sect. 47.

(*e*) Sect. 47. (*f*) Sect. 49, and see *post.*, note thereto.

(*g*) Sect. 50. (*h*) Sects. 51, 77.

Numerous penalties are provided against overseers:—
 5*l.* for disobedience to any legal (*a*), but not illegal (*b*), order, of any justice or guardian in carrying this act into effect; 20*l.* for purloining, embezzling, or wilfully wasting or misapplying the goods, &c. of the parish, and treble the value of the goods (*c*), &c., besides being liable to be proceeded against for disobedience to the rules of the commissioners (*d*).

6. *Paid Officers.*

In parishes that have a board of guardians, the guardians—and in parishes that have not, but have hitherto been under open vestries, or vestries under Gilbert's Act, the *overseers*—(not the rate-payers it seems,) may be directed by the commissioners to appoint paid officers: whose qualifications, duties, districts, salaries, duration in office, removal, &c., are all to be prescribed, regulated, and ordered by the commissioners (*e*).

On the removal of any paid officer, the commissioners may require some other person to be appointed in his room. No person removed, will be competent afterwards to be appointed to any other paid office (*f*); nor will any person be eligible who has been convicted of felony, fraud, or perjury.

The paid officers respecting whom the Act itself contains the greatest number of regulations, are the masters of workhouses. Besides being under the common obligation of obeying the rules of the commissioners, and the orders of justices in carrying such rules into effect,—and the common liability to be dismissed at the pleasure of the commissioners,—the Act requires them to register on such days as the commissioners shall appoint, the names of all persons relieved at or in the workhouse, together with such parti-

(*a*) Sect. 95.

(*b*) Sect. 96.

(*c*) Sect. 97.

(*d*) Sect. 98.

(*e*) Sect. 46.

(*f*) Sect. 48.

culars respecting their family, settlement, relief, and employment, as the commissioners shall direct, and thenceforward to continue such register (*a*). They are also prohibited from introducing into the workhouse any spirituous liquor, except for their own domestic use, unless ordered by the surgeon, visiting justice, or allowed by the rules of the commissioners (*b*). They are not to inflict any corporal punishment on any adult person, nor confine any person more than twenty-four hours, or such longer time as may be necessary to take him before a justice, and for offences in these respects, as well as for any misconduct towards any poor person, they are to forfeit not more than twenty pounds, and be sent to gaol in default of paying the penalty. In payment of penalties, their salaries may be retained (*c*). They are to hang up copies of the sections 92, 93, prohibiting other persons from introducing spirits into the workhouse, and to renew such copies from time to time: and for purloining, embezzling, or wasting, the property of the workhouse, they are to be liable to the same penalties as other persons (*d*).

CHAPTER VI.

OF UNIONS (*e*).

The principal provisions relating to unions have been already noticed in the statement of the powers of the commissioners and guardians, but it will be convenient to recapitulate them.

(*a*) Sect. 55. (*b*) Sect. 93. (*c*) *Idem*. (*d*) Sect. 97.

(*e*) The manner in which Gilbert's incorporations, and unions and incorporations under local Acts are affected by this Act is specially considered in the note to sect. 29.

From the passing of this Act no union or incorporation is to be formed under the 22 Geo. 3, c. 83, without the consent of the commissioners (*a*). The commissioners may declare so many parishes as they may think fit to be united (*b*): and when any such union is proposed, they are to ascertain the expence incurred by each parish for the three years preceding, and thereupon to calculate the annual average, which until altered, is to be the proportion in which each parish shall contribute to a common fund, for the purchasing, building, hiring, or altering, and the upholding and maintaining of any union-workhouse, the purchasing or renting of lands, the payment of officers, and the providing of utensils and materials for setting the poor to work (*c*)—but for these expences only;—and if the commissioners see fit, they may—as to such unions—cause from time to time like inquiries to be made, and like averages calculated for the like period, that they may regulate in the like manner, the proportions in which the different parishes shall contribute to the common fund for the above specified purposes (*d*)—and those purposes only. And where unions have been already formed under local Acts of incorporation, or under 22 Geo. 3, c. 83, the commissioners may cause an account to be rendered of the expence incurred for the poor of each parish within the union for the period of three years ending 25th of March, 1834; and the average annual amount shall, to such extent as the commissioners may direct,—but to such extent only,—be taken as the proportion to be contributed by each parish towards the common fund, for the purposes above specified—and those purposes only (*e*). And—as

(*a*) Sect. 37. See note to sect. 29.

(*b*) Sect. 26.

(*c*) Sect. 28.

(*d*) *Idem*.

(*e*) Sect. 29. See also *post.*, note thereto.

to these unions also—the commissioners may in future, from time to time, ascertain for the like purposes, but not in the like manner (*a*), the averages for the preceding three years of the expences of the union.

Upon the uniting of any parishes for the administration of relief to the poor, the workhouses are to be for their common use, and their poor are to be received and maintained therein, as if the workhouses belonged to the union originally (*b*). And the commissioners, with the concurrence of the guardians, may declare any union,—whether formed before or after this Act,—to be dissolved, or any parishes to be separated from, or added to it (*c*):—in which case, they are to ascertain the proportionate value of the workhouse, and the proportionate amount chargeable on each parish in respect of the liabilities of the union (*d*), and thereupon fix the amount to be received and paid respectively by the parishes comprised in the union;—but no such dissolution, or alteration, is to vary the rights of third persons (*e*), unless (the Act says) such persons or their agents consent in writing, to the dissolution or alteration,—but it is not very clear how their consent in this respect can vary rights, except so far as they would be varied without such consent by the mere dissolution or alteration of the union.

For the purposes of substituting union settlements for parish settlements, the elected guardians of any parishes—(or, where a parish has no such guardians, a majority of the owners and rate-payers) of the whole union may agree,—subject to the approbation of the commissioners,—that the parishes shall be as one parish for the purposes of settlement,—and such agreement in writing, being

(*a*) See note to sect. 29.

(*b*) Sect. 26.

(*c*) Sect. 32.

(*d*) *Idem*.

(*e*) *Idem*.

signed by the guardians,—and signed and sealed by the commissioners, with some other formalities, it will be for ever binding on the parishes, and thereafter the settlements of any of the united parishes will be settlements of the union, the expences also relating to which will be the common expences of the whole union (*a*).

For the purposes of rating, also, where all the parishes of any union are situate within the same county, the elected guardians of such union,—or a majority of the owners and rate-payers, where a parish has no elected guardians,—may agree—but it seems *all* must agree—with the approbation of the commissioners, that the parishes shall be considered as one parish, for the purpose of raising a common fund by one common assessment,—which agreement is to be signed, sealed, and deposited respectively, as in the case of agreements to unite for the purposes of settlement, and is in like manner thenceforth to be for ever binding and irrevocable (*b*). The guardians, then, under regulations to be prescribed by the commissioners, are to survey, value, and assess all the rateable property within the union, and the rates founded on such valuation, are to be, in all respects, under the same regulations, as rates for the relief of the poor are, where there is no such union, and the rate-payers are to have the like power of appeal against them (*c*). And after any such common rate has come into operation, the proportions of contribution previously existing are to cease; and all expenditure chargeable on the respective parishes shall be taken out of the common rate, raised all over the union (*d*). But parishes not represented by guardians will not be bound by any such agreement, unless the

(*a*) Sect. 33.

(*b*) Sect. 34.

(*c*) Sect. 35.

(*d*) Sect. 36.

owners and rate-payers thereof have assented to it : and without such assent no such parish is to be included in the agreement, nor to be liable for any thing more than the proportion of the assessment as before the union (*a*).

For the purposes of appointing and paying officers also, the commissioners may, as and when they see fit, specify and declare parishes or unions to be united (*b*) ; and may direct overseers or guardians to appoint such paid officers with such qualifications as the commissioners may think necessary for carrying the provisions of this Act into execution ; and the commissioners are to fix the duties, districts, duration, causes of dismissal, security to be given, and salaries of all such officers, as well as to fix the time and mode of payment, and the proportions in which the parishes or unions are to contribute to the expence arising from their appointment (*c*).

GILBERT'S INCORPORATIONS AND LOCAL ACTS OF INCORPORATION.

This subject is separately treated of in the note to sect. 29.

CHAPTER VII.

OF WORKHOUSES.

This Act repeals so much of the statutes 22 Geo. 3, c. 83, s. 5, and 56 Geo. 3, c. 129 (*d*), as restrains parishes from contributing to workhouses at a greater distance than ten miles ; it also repeals so much of 22 Geo. 3, c. 83, s. 29, as limits the class or description of persons to be sent to the workhouse. And as to building powers—it empowers

(*a*) Sect. 36.

(*b*) Sect. 46.

(*c*) Sect. 46.

(*d*) Sect. 31.

the commissioners to control all persons whatever in the exercise of any of the powers and authorities of this kind given by 22 Geo. 3, c. 83, by 59 Geo. 3, c. 12, and by all other Acts, general and local (*a*),—whether relating to the building, altering, and enlarging of workhouses,—or relating to the incidental powers of purchasing, hiring, holding, and selling of land;—or to the fitting-up of such houses;—or to the dieting, clothing, employing, and governing of the poor therein;—or to the raising or borrowing of money for repaying the same, or for any of these purposes; and also to control all powers auxiliary to any of these powers, or in any way relating to the relief of the poor.

This Act also enacts, that with the consent of a majority of the guardians,—or of the rate-payers and owners, where there are no guardians,—the commissioners may direct the overseers or guardians of parishes or unions, *not having workhouses*, to build workhouses,—in short to exercise all the powers above enumerated, which can no longer be exercised without the approbation of the commissioners (*b*). And where any such powers are exercised, the guardians and overseers are authorized to raise the necessary sums of money (*c*),

subject to this limit however,—which is in fact a limitation on the exercise of the power,—that the sum to be raised for the expences incurred in this particular way shall not exceed the annual average amount of the rates for the three years preceding; and if money is *borrowed* to defray these expences, then it must not exceed more than would be repaid in ten years, limiting each year's payment on account of the loan as is just mentioned,—that is, limiting it to the average annual amount of all the rates for the three years preceding. (*d*)

(*a*) Sect. 21.

(*b*) Sect. 23.

(*c*) Sect. 24.

(*d*) *Idem*.

Without the consent of the guardians, or owners, and rate-payers, the commissioners may order and direct overseers and guardians of parishes or unions *having work-houses*, or buildings capable of being converted into work-houses, to *enlarge* or *alter* the same, according to such manner as the commissioners shall deem proper: but in this case the principal sums to be raised for such purposes shall not exceed the sum of 50*l.*(*a*); nor in any case exceed one-tenth of the average annual amount of the rates.

Where the workhouse of any place is situate out of the limits of the corporate jurisdiction to which the principal part of such place or parish belongs, the workhouse is to be under the corporate jurisdiction as if it were within the corporate limits(*b*).

As to the government of workhouses,—the commissioners are empowered to make rules for every workhouse,—whether already established or hereafter to be established, and whether under Gilbert's Act, any local Act, or by this or any other Act of Parliament(*c*). And they are empowered from time to time to suspend, alter, or rescind these rules(*d*). But they may not make any rule, order, or regulation, nor any bye-law, to authorize the education of any child in any workhouse in any religious creed other than that professed by its parents; nor to oblige any inmate to attend any religious service celebrated contrary to his religious opinions(*e*).

They are also expressly empowered to alter or rescind any rules, orders, or regulations contained in the schedule of the 22 Geo. 3, c. 83(*f*);—or made in pursuance of the present Act, or any local Act, relating to workhouses. No rules now existing are to be altered, nor any rules to be made,—

(*a*) Sect. 25.

(*b*) Sect. 44.

(*c*) Sect. 42.

(*d*) *Idem*.

(*e*) Sect. 19.

(*f*) Sect. 42. See *post.*, note to sect. 29.

under the authority of any Act local or general,—until submitted to, and approved and confirmed by the commissioners, and when so confirmed such rules are to be binding on all persons, and no justice is to have power to repeal them (*a*).

The Act also contains several regulations of police relating to workhouses. No dangerous insane person or idiot is to be detained in any workhouse more than fourteen days, and a detention of him longer is made a misdemeanor (*b*). The Act also repeals so much of the statute 6 Geo. 4, c. 80, as relates to the prohibition of spirits in workhouses (*c*), and on the same subject enacts, that if any person shall introduce any spirituous or fermented liquor, the master of workhouse may cause the offender to be carried before a justice, who, on conviction, shall forfeit not more than 10*l.*, and in default of payment be sent to gaol (*d*); copies of this clause, and the corresponding clause prohibiting officers of workhouses from introducing spirits except for their own consumption, contrary to rule, are to be hung up in the workhouse (*e*). For the purpose of giving religious aid, any licensed minister of the religious persuasion of any inmate, is to be allowed to visit the workhouse at all times of the day, at the request of the inmate, and to be admitted for the purpose of instructing the child of any inmate in the principles of its religion (*f*). The visiting powers of justices also are enlarged for the purpose of seeing that the rules of the commissioners are duly observed, as well as for the purposes for which they were originally created, and if such rules are not duly observed, the party offending is made liable to penalties (*g*).

(*a*) Sect. 42. (*b*) Sect. 45. (*c*) Sect. 91. (*d*) Sect. 92.

(*e*) Sect. 94. (*f*) Sect. 19. (*g*) Sect. 43.

INTERPRETATION.

The 109th section of the Act gives the interpretation of the following terms which occur in the Act:—

AUDITOR.

GENERAL QUARTER SESSIONS.

GENERAL RULES.

GUARDIAN.

JUSTICE OR JUSTICES OF THE PEACE.

OATH.

OFFICER.

ORDERS AND REGULATIONS.

OVERSEER.

OWNER.

PARISH.

PERSON.

POOR.

POOR LAWS, OR, LAWS FOR THE RELIEF OF THE POOR.

POOR-RATE.

RACK-RENT.

UNION.

UNITED WORKHOUSE.

VESTRY.

WORKHOUSE.

THE
POOR LAW AMENDMENT ACT.

4 & 5 W. IV., c. 76.

An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.

[14th August, 1834.]

APPOINTMENT OF BOARD OF COMMISSIONERS.

WHEREAS it is expedient to alter and amend the laws relating to the relief of poor persons in England and Wales: Be it therefore enacted (a) by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That it shall be lawful for his Majesty, his heirs and successors, by warrant, under the royal sign manual, to appoint three fit persons to be commissioners to carry this Act into execution, and also from time to

Appoint-
ment and
removal of
commis-
sioners.

(a) This section empowers his Majesty to appoint three commissioners, to remove them at pleasure, and to fill up at any time their vacant places: it also provides that, in case of any vacancy, the remaining commissioners may act as if there was the full number.

time, at pleasure, to remove any of the commissioners for the time being, and upon every or any vacancy in the said number of commissioners, either by removal or by death or otherwise, to appoint some other fit person to the said office; and until such appointment it shall be lawful for the surviving or continuing commissioners or commissioner to act as if no such vacancy had occurred.

STYLE AND SITTING OF BOARD.

Style of
commis-
sioners;

who may
sit as a
board, with
power to
summon
and exam-
ine witnes-
ses, and call
for produc-
tion of pa-
pers, on
oath;

II. And be it further enacted (*b*), That the said commissioners shall be styled "The Poor Law Commissioners for England and Wales:" and the said commissioners, or any two of them, may sit, from time to time as they deem expedient, as a board of commissioners for carrying this Act into execution; and the said commissioners acting as such board shall be and are hereby empowered, by summons under their hands and seal, to require the attendance of all such persons as they may think fit to call before them upon any question or matter connected with or relating to the administration of the laws for the relief of the poor, and also to make any inquiries and require any answer or returns as to any such question or matter, and also to administer oaths, and examine all such persons upon oath, and to require and enforce the production upon oath of books, contracts, agreements, accounts, and writings, or copies thereof respectively, in anywise relating to

(*b*) By this section the commissioners are to have the style of "The Poor Law Commissioners for England and Wales;" they or any two of them may sit as a Board; may summon persons before them from any distance within ten miles, upon any poor-law business; may examine upon oath, administer the oath; require the production of all sorts of written documents relating to poor-law matters; but may not act as a court of record (and therefore cannot commit for contempt, though they may send a person for contempt before two justices, see sect. 98), nor enter upon the question of the title to any lands not belonging to the parish.

any such question or matter ; or, in lieu of requiring such oath as aforesaid, the said commissioners may, if they think fit, require any such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined : Provided always, that no such person shall be required, in obedience to any such summons, to go or travel more than ten miles from the place of his abode : Provided also, that nothing herein contained shall extend or be deemed to extend to authorize or empower the said commissioners to act as a court of record, or to require the production of the title, or of any papers or writings relating to the title of any lands, tenements, or hereditaments not being the property of any parish or union.

or to substitute a declaration for an oath ;

but not to inquire into any title.

AUTHENTICATION OF ACTS OF BOARD.

III. And be it further enacted (c), That the said commissioners shall cause to be made a seal of the said board, and shall cause to be sealed or stamped therewith all rules, orders, and regulations, made by the said commissioners in pursuance of this Act ; and all such rules, orders, and regulations, or copies thereof, purporting to be sealed or stamped with the seal of the said board, shall be received as evidence of the same respectively, without any further proof thereof ; and no such rule, order, or regulation, or copy thereof, shall be valid, or have any force or effect, unless the same shall be so sealed or stamped as aforesaid.

To have a common seal.

Rules, &c. purporting to be sealed with such seal to be received as evidence.

(c) This section gives the commissioners a seal of office, and requires them to seal all their rules, orders, and regulations with it. For the purpose of evidence, *copies* of such rules, if sealed, are to be sufficient, and proof of the seal only, it seems, will be necessary. That proof of the seal at least will be necessary appears from the expression, "without any further proof," which implies, that *some* proof is necessary ; it can only be proof of the seal, and without this proof, there would be no proof at all.

RECORD OF PROCEEDINGS OF BOARD.

Commis-
sioners to
record their
proceed-
ings.

IV. And be it further enacted (*d*), That the said commissioners shall make a record of their proceedings, in which shall be entered in writing a reference to every letter received, from whence, its date, the date of its reception, and the subject to which it relates, and a minute of every letter written or order given by the said commissioners, whether in answer to such letters received or otherwise, with the date of the same, and a minute of the opinion of each of the members of the board of commissioners, in case they should finally differ in opinion upon any order to be given or other proceeding of the board; and such record shall be submitted to one of his Majesty's principal secretaries of state once in every year, or as often as he shall require the same.

REPORT OF PROCEEDINGS OF BOARD.

Commis-
sioners to
make a ge-
neral report
to the se-
cretary of
state year-
ly;

V. And be it further enacted, That the said commissioners shall, once in every year, submit to one of the principal secretaries of state a general report of their proceedings; and every such general report shall be laid before both houses of parliament within six weeks after the receipt of the same by such principal secretary of state, if parliament be then sitting, or if parliament be not sitting, then within six weeks after the next meeting thereof (*e*).

(*d*) This section requires the commissioners to keep what it calls "a record of their proceedings," but is a mere index, as it gives only names and dates of letters, subjects described in the manner usual at heads of chapters, a sort of *plus* and *minus* mark when the commissioners differ: which index, or skeleton of a record, is required to be submitted once a year to one of his Majesty's principal secretaries of state.

(*e*) The recommendation on which this section, requiring from the commissioners an annual report, is founded, suggested that the annual report should contain—1. "An account of their proceedings. 2. Any further amendments which they may think it advisable to suggest. 3. The evidence on which the suggestions are founded. 4. Bills carrying those amend-

VI. And be it further enacted, That the said commissioners shall from time to time, at such times as any one of his Majesty's principal secretaries of state shall direct, give to the principal secretary of state requiring the same such information respecting their proceedings, or any part thereof, as the said principal secretary of state shall require (*f*). and to report proceedings to secretary of state when required.

APPOINTMENT OF ASSISTANT COMMISSIONERS.

VII. And be it further enacted (*g*), That the said commissioners shall and they are hereby empowered Power to appoint assistant commissioners;

ments (if any) into effect, which bills the board shall be empowered to prepare with professional assistance." The first of these objects is secured in the above section; but not the others, though probably they will soon spring out of the power to examine witnesses given by the first section.

(*f*) As the proceedings of the commissioners will affect not only whole classes, but great numbers of isolated individuals—and that by means of particular acts, and not merely through measures of general policy—the parliamentary responsibility under which this and the previous section assist to place the board, is not alone sufficient to satisfy that regard for private rights which the public require as their own necessary safeguard and security. There ought to have been some check, at least in certain classes of cases, suspending the hand of the board, till it obtained the sanction of a court of justice, or giving to the injured an appeal to a court, not indeed in the invidious form of an action, nor merely in the inadequate mode of a certiorari, but by motion—or in some way which might have but slightly wounded the pride or dignity of the commissioners, have repressed injustice, and indemnified for injury.

(*g*) This section empowers the commissioners to appoint any number not exceeding nine of assistant commissioners; to increase their number above nine by consent from the treasury: to remove them at pleasure; and on any vacancy to fill up their number. By the 10th section, their appointments are made to cease at the end of five years, with those of the commissioners. The 11th section prescribes an oath; to be taken by them on entering upon their office; and it requires a notification of their appointments to be put in the London Gazette, and to be sent to the clerks of the peace, who are to keep it with the records of the county. The 12th section relates to the delegation of powers to them from the commis-

ered from time to time to appoint such persons as they may think fit to be assistant commissioners for carrying this Act into execution, at such places and in such manner as the said commissioners may direct, and to remove such assistant commissioners, or any of them, at their discretion, and on every or any vacancy in the said office of assistant commissioner, by removal or by death or otherwise, to appoint, if they see fit, some other person to the said office: and to re-move same.

Not more than nine to be appointed, without consent of Treasury.

Provided always, that it shall not be lawful for the said commissioners to appoint more than nine such assistant commissioners to act at any one time, unless the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, shall consent to the appointment of a greater number.

DISQUALIFICATION OF COMMISSIONERS.

Commissioners not to sit in Parliament.

VIII. And be it further enacted, That no commissioner or assistant commissioner appointed as aforesaid shall during his continuance in such appointment be capable of being elected or sitting as a member of the House of Commons (*h*).

sioners, and gives them, independently of such delegation, the same powers of summoning persons to be examined before them, as are given by the 2nd section to the commissioners. By the 21st section, they are entitled to attend at every local board, and take part in the discussions, but not to vote; and by the 20th, their orders and regulations are to be of no force till confirmed by the commissioners. With this latter limitation, it will probably be found, that to watch the proceedings of local boards and officers, to interpret the rules and orders, to see that the rules are obeyed, to ascertain their effect, to report their own observations, and transmit the wishes and opinions of other persons, will be the whole extent of their duty and functions.

(*h*) Two of the gentlemen appointed commissioners were members of Parliament, and the reason for this clause of disqualification in future seems to be, the dependence in which the commissioners are placed by being removable at pleasure. Were the commissioners, on the contrary, independent heads, there would be no more reason for excluding

APPOINTMENT OF OFFICERS OF BOARD.

IX. And be it further enacted, That the said commissioners may and they are hereby empowered from time to time to appoint a secretary, assistant secretary or secretaries, and all such clerks, messengers, and officers as they shall deem necessary, and from time to time, at the discretion of the said commissioners, to remove such secretary, assistant secretary or secretaries, clerks, messengers, and officers, or any of them, and to appoint others in their stead: Provided always, that the amount of the salaries of such secretary, assistant secretary or secretaries, clerks, messengers, and officers shall from time to time be regulated by the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them.

Commissioners to appoint secretary, assistant secretary or secretaries, clerks, and other officers.

them from the House of Commons than the heads of any other of the administrative branches.

But it may be said, look at the next clause, where their independence is pronounced by the power given them to appoint their own officers. They also appoint the assistant commissioners. It would be more pertinent to observe who fix the salaries;—for if the lords of the treasury fix the salaries high, as they most probably will, this power of the commissioners is merely nominal, and willing or unwilling, they must appoint persons, perhaps unknown to themselves, who have influence at the treasury; and indeed, this principle, in another form, is seen even in the composition of the board itself; or else why not have included in it the gentleman whose appointment to a commissionership was assured in the expectation of the public by the lord chancellor's announcement to the House of Lords and the country of his transcendent qualifications and merits. But,—what! appoint to two or three thousand a-year, a man whose recommendation is a superior power of investigation, which has probed to the core the evil of past poor-law administration, and whose sagacity it was that indicated to the commissioners and Government, (himself not then a commissioner,) the necessity of a central board, as the sole efficacious remedy. Is that a man of parliamentary connections? Is it for such an one that salaries are made high? Make him secretary. Yet as secretary, his transcendent ability requires the remuneration due to a commissioner. Remunerate him so then: the commission is popular in Parliament, and there is no

DURATION OF BOARD.

Appoint-
ment of
commis-
sioners, &c.
limited to
five years.

X. And be it further enacted (*i*), That no commissioner to be appointed by his Majesty, nor any assistant commissioner, secretary, or other officer or person to be appointed by the said commissioners, under and by virtue of the provisions of this Act, shall continue to hold his respective office or exercise any of the powers given by this Act for a longer period than five years next after the day of the passing of this Act, and thenceforth until the end of the then next session of parliament; and from and after the expiration of the said period of five years, and of the then next session of parliament, so much of this Act as enables his Majesty to appoint any commissioner or commissioners shall cease to operate or have any effect whatever.

one there to complain of the excessive salaries of the commissioners—excessive, however, only when it is considered in what relation they are placed to the treasury.

(*i*) This section makes all appointments under the Act expire at the end of five years. It may be regarded partly as a temporary concession, involving no real loss, to the opponents of the measure; partly as the reservation of an opportunity of reconstructing the board with the more efficacious powers proposed originally. Such powers, however, probably will be obtained in the interval indirectly, through the discovery which the commissioners cannot fail to make, that a mere repeal of existing laws, many of which will be without a defender, will enlarge their power, on the principle that where there are two opposite quantities, a subtraction from the one is of the same effect as an addition to the other; so that, by merely repealing, for instance, the 7 Geo. 3. c. 39, which operates as a restriction on the powers of the commissioners as to poor children within the bills of mortality; the powers of the commissioners will, without one word said about them, be enlarged to the same extent over such poor as they may be now exercised on the same class of poor out of the limits of the bills of mortality; and again, by merely repealing a great many enactments relating to apprentices, which will seem not worth defending, another branch of power will be silently gained, against which there has been a successful opposition. This is a resource which seems not yet to have occurred to the government.

OATH OF OFFICE.

XI. And be it further enacted, That every commissioner and assistant commissioner to be appointed from time to time as aforesaid shall, before he shall enter upon the execution of his office, take the following oath before one of the judges of his Majesty's courts of King's Bench or Common Pleas, or one of the barons of the Court of Exchequer; (that is to say,)

Commis-
sioners and
assistant
commis-
sioners to
take oath.

' I *A. B.* do swear, That I will faithfully, impartially,
' and honestly, according to the best of my skill and
' judgment, execute and fulfil all the powers and
' duties of a commissioner (*or assistant commissioner,*
' *as the case may be,*) under an Act passed in the
' fifth year of the reign of King *William* the Fourth,
' intituled (*here set forth the title of this Act*).'

Form of
oath.

NOTIFICATION OF APPOINTMENTS.

And the appointment of every such commissioner and assistant commissioner, together with the time when and the judge or baron before whom he shall have taken the oath aforesaid, shall be forthwith published in the London Gazette (*k*); and a notification of such appointment and of the taking of such oath shall from time to time be sent, under the hands and seal of the said commissioners, to the clerk of the peace of every county in England and Wales, who shall and is hereby required as soon as conveniently may be to cause the same to be advertized once in some newspaper published or circulated in such county; and such notification as aforesaid shall be kept and preserved by

Notifica-
tion of ap-
pointment
of commis-
sioners to
be sent to
clerks of
the peace,
and pub-
lished.

(*k*) The necessity for such a provision as this would be superseded by some general statutory regulation, requiring the notification, in the London Gazette, of all appointments to administrative functions, and of all appointments to any office whatever, of above a certain salary.

such clerk of the peace with the records of such county.

DELEGATION OF POWERS TO ASSISTANT COMMISSIONERS.

Commissioners may delegate powers to assistant commissioners, and revoke them.

Assistant commissioners may summon persons and examine them upon oath; or a declaration may be substituted for an oath.

XII. And be it further enacted (*l*), That it shall be lawful for the said commissioners to delegate to their assistant commissioners, or to any of them, such of the powers and authorities hereby given to the said commissioners (except the powers to make general rules) as the said commissioners shall think fit; and the powers and authorities so delegated, and the delegation thereof, shall be notified in such manner, and such powers and authorities shall be exercised at such places, for such periods, and under such circumstances, and subject to such regulations as the said commissioners shall direct; and the said commissioners may at any time revoke, recall, alter, or vary all or any of the powers and authorities which shall be so delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and the said assistant commissioners may and are hereby empowered to summon before them such persons as they may think necessary for the purpose of being examined upon oath (which oath such assistant commissioners are hereby empowered to administer) upon any question or matter relating to the poor or their relief, or for the purpose of producing and verifying upon oath any books, contracts, agreements, accounts, and writings, or copies of the same, in anywise relating to such question or matter, and not relating to or involving any question of title to any lands, tenements, or hereditaments not being the property of any parish or union, as such assistant commissioners may think fit, but so that no such person shall be required, in

(*l*) *Ante*, p. 5, n. (*g*)

obedience to any such summons, to go or travel more than ten miles from the place of his abode; provided nevertheless, that in lieu of requiring such oath as aforesaid the said assistant commissioners may, if they think fit, require such person to make and subscribe a declaration of the truth of the matters respecting which he shall have been or shall be so examined; and all summonses and orders made by any such assistant commissioner in pursuance or exercise of such delegated powers and authorities shall be obeyed, performed, and carried into effect by all persons as if such summons or order had been the summons or order of the said commissioners, and the breach, non-observance, or non-performance thereof shall be punishable in like manner.

XIII. And be it further enacted, That if any person, upon any examination under the authority of this Act, shall wilfully and corruptly give false evidence, he shall be deemed guilty of perjury (*m*), and if any person shall make or subscribe a false declaration, he shall, on being convicted thereof, suffer the pains and penalties of perjury, and if any person

Giving false evidence, perjury.

(*m*) It was alleged by Sir Robert Peel, and supported by the minister, as a reason for not making the orders of the commissioners removable by certiorari, that these orders were measures of general policy: it would follow then that their examinations were with a view to measures of general policy. So far, therefore, they are of the same kind as examinations taken before the committees of the two Houses of Parliament; yet these, without an oath, and without the penalties of perjury, are deemed sufficiently certain to guide the legislature. And there is this reason for not administering an oath, where the inquiry is one of general policy, that too many persons know the truth to leave any danger of deception, if a reasonable number are called as witnesses. Why is the oath wanted in a trial of private right? Because the whole issue often depends on the *conscience* of a single witness. But to denounce the penalties of perjury against him who denies facts as notorious as the sun at noon-day, is absurd, even though he does it corruptly.

Refusing to
attend, &c.
misde-
meanor.

shall wilfully refuse to attend in obedience to any summons of any commissioner or assistant commissioner, or to give evidence, or shall wilfully alter, suppress, conceal, destroy, or refuse to produce any books, contracts, agreements, accounts, and writings, or copies of the same, which may be so required to be produced before the said commissioners or assistant commissioners, every person so offending shall be deemed guilty of a misdemeanor.

Expences
of wit-
nesses to be
paid, and
by whom.

XIV. And be it further enacted, That it shall be lawful for the said commissioners, in any case where they see fit, to order and allow such expences of witnesses, and of or attending the production of any books, contracts, agreements, accounts, or writings, or copies thereof, to or before the said commissioners or assistant commissioners, as such commissioners may deem reasonable, to be paid as follows; that is to say, out of the poor-rates of the respective parish or union which in the opinion of the said commissioners shall be interested or concerned in such attendance or production respectively in all cases in which such witnesses shall not go or travel more than ten miles from the respective parish or union which shall be interested or concerned as aforesaid, and in all other cases the expences so ordered or allowed shall be deemed as part of the incidental expences attending the execution of this Act, and be paid accordingly (*n*).

(*n*) This power of paying witnesses is a very fit subject of public jealousy. A witness in a cause not his own, whether the public are interested or not, ought to be remunerated; but how far the remuneration should go, whether only to loss of time, or to other considerations also, is an embarrassing and difficult question. It is clear it should be on a permanent and fixed scale, to prevent partiality and prejudice, or even the suspicion that more or less would have been paid had the witness given different evidence. The scale should also be modified for persons of different degrees and classes. One rate of payment for all classes would be either too high for all, or too low for all: or if just for the merchant, the farmer, and

GENERAL POWERS OF BOARD, AND POWER TO
MAKE RULES.

XV. And be it further enacted, That from and after the passing of this Act the administration of relief to the poor throughout England and Wales, according to the existing laws, or such laws as shall be in force at the time being, shall be subject to the direction and control of the said commissioners; and for executing the powers given to them by this Act the said commissioners shall and are hereby authorized and required, from time to time, as they shall see occasion, to make and issue all such rules, orders, and regulations for the management of the poor, for the government of workhouses and the education of the children therein, and for the management of parish poor children under the provisions of an Act made and passed in the seventh year of the reign of his late Majesty King George the

Adminis-
tration of
relief to the
poor to be
under con-
trol of the
commis-
sioners ;
who are to
make rules
and regula-
tions for the
manage-
ment of the
poor, and
administra-
tion of the
laws for
their relief,
&c.

attorney, would be too high for the mechanic and the labourer. If too high, the allowance is an inducement to counterfeit knowledge; if too low, to conceal it; in either case there is a fraud, or the danger of a fraud upon truth and justice. By considering the circumstances under which the danger is the greatest, rules may be laid down by which the evils will in a great degree be prevented. Obviously the danger is the greatest, when the witness has to travel furthest. If a witness could be examined at his own door, with no other loss of time than the time consumed in taking his evidence, he would hardly think of claiming any remuneration, still less of making a profit. Courts of justice, therefore, courts of inquiry, (and the commissioners here are supposed to act as courts of inquiry) should take witnesses as seldom as possible from their own neighbourhood. By carrying on their investigations respecting the administration of the poor law on the spot, the commissioners will avoid the avenue of abuse and distrust just alluded to. Perhaps where a witness has to travel, the commissioners could not do better than to take the allowance scales of the courts of justice; and where he has not to travel more than a mile, or lose more than six hours, he should have no allowance, unless he belongs to the working classes. Parish officers and vestrymen should in no case be allowed more than travelling expences.

7 Geo. 3,
c. 39.

Commis-
sioners may
suspend or
alter rules,
&c.

Third, intituled *An Act for the better regulation of parish poor children of the several parishes therein mentioned within the bills of mortality*, and the superintending, inspecting, and regulating of the houses wherein such poor children are kept and maintained, and for the apprenticing the children of poor persons, and for the guidance and control of all guardians, vestries, and parish officers, so far as relates to the management or relief of the poor, and the keeping, examining, auditing, and allowing of accounts, and making and entering into contracts in all matters relating to such management or relief, or to any expenditure for the relief of the poor, and for carrying this Act into execution in all other respects, as they shall think proper; and the said commissioners may, at their discretion, from time to time suspend, alter, or rescind such rules, orders, and regulations, or any of them: Provided always, that nothing in this Act contained shall be construed as enabling the said commissioners or any of them to interfere in any individual case for the purpose of ordering relief (o).

(o) To form a correct idea of the legal effect of this section a close analysis of it will be necessary.

1. From the passing of this Act, "*The Administration of Relief to the Poor*" is to be subject to the direction and control of the commissioners. This defines generally the subject of their jurisdiction. It is, the administration of relief. Their power is, to direct and control it. And as relief is administered by overseers, guardians, and vestries, it would follow without any express provision to that effect, that those persons, in respect of the functions of administering relief, are hereby put under the control of the commissioners. And probably it will be held that their other functions, such as the raising of money, the making of contracts, the keeping of accounts, though not strictly consisting in the administration of relief, are included in that expression, as the incidents of it. (See *post.*, p. 69, of this note.)

But 2. The commissioners have not an unqualified control over the administration of relief, or at least not in virtue of this section, for in subjecting it to their authority it is described as "*the administration of relief according to the existing laws, or such laws as shall be in force at*

RESTRICTIONS ON GENERAL RULES.

XVI. And be it further enacted, That no general rule of the said commissioners shall operate or take General rules to be submitted to secretary of state 40 days before coming into operation.

the time being;” to preserve to it which attribute it must be controlled according to the laws in force for the time being. It follows, that an order of the board at variance with any unrepealed part of the law will not be obligatory. It would, it seems, also have followed that the orders of the board would have been removable by certiorari, without the clause to that effect (s. 105), unless an express provision had been made to the contrary.

3. As means of executing their powers the commissioners may, from time to time as they shall see occasion, issue general rules and orders on the following subjects, (all of which, see p. 69, end of this note, belong to the administration of the laws of relief, and will, therefore, probably be considered as included in the term defining at the beginning of the section the jurisdiction of the commissioners.) *1st. The management of the poor.* “The commissioners are hereby authorized to make regulations for the management of the poor.” The allusion is obvious, to functions well known, but too numerous to be particularized, belonging to guardians, vestries, overseers, and other parish officers. Of *management* the chief subject is relief, and the regulation of relief is given to the commissioners by the 52nd section. In the administration of relief, the system of workhouses is prominent. Their regulation and a control over all persons concerned in their immediate superintendence is given to the commissioners by several sections. (ss. 42, 48, 52.) *2nd.* The next subject, over which the commissioners are expressly empowered to exercise their control by means of general rules and orders, is, “*The government of workhouses and the education of the children therein.*” This power, as has just been observed, is involved in the power of managing the poor, and is corroborated by numerous auxiliary powers, especially the power of removing masters of workhouses and other parish officers. By one section of this Act, not only are masters of workhouses removable by the commissioners, but no person removed can be put again into any paid parish office without their consent, (s. 48,) and wilful disobedience on the part of the same persons is visited by another section with penalties recoverable before any two justices. (s. 95.) *3rd.* The next subject specified is, *The management of children under the Statute 7 Geo. 3, c. 39, and the superintendence of the houses wherein such children are kept.* It will be convenient to con-

effect until the expiration of forty days after the same, or a copy thereof, shall have been sent, signed

sider here how far that Act is annulled by the present Act, as well as the manner in which its provisions affect the powers of the commissioners. And, first, as to the appointment of guardians. The Act recites the expediency of appointing persons specially to inspect into the management and usage of the infant poor of the parishes within the bills of mortality; and accordingly it directs guardians, under the title of "guardians of the parish poor children," to be appointed annually. In the present Act are several provisions for the establishment of boards of guardians: (ss. 38, 40, &c.) With reference to these provisions, the 41st section enacts, "That in future all elections of guardians for the execution of any of the purposes of *any Local Act relating to poor-houses, workhouses, or the relief of the poor* shall, so far as the commissioners shall direct, be made according to the provisions of the present Act." Now, if the Act of the 7 Geo. 3, c. 39, relating to the poor children within the bills of mortality is, *a Local Act relating to the relief of the Poor*, it will depend on the commissioners whether guardians shall be appointed in future according to the provisions of that Act, or of the present Act; though, if no direction is given by the commissioners to the contrary, it would be under the former. First, then, is the Act alluded to "a Local Act?" It is,—for the legislature has inserted in it the clause, unnecessary in a general Act, requiring the judges to take notice of it judicially. Being then a Local Act, is it, secondly, an Act for the relief of the Poor? Presumably, I should say it is not so, or (which is the same in effect), not in the sense of that expression in the above enactment. For, the elections of guardians to which the provisions of the present Act relate, are elections of guardians with *general* powers, and for *general* purposes. The parish poor children were under the general powers of parish officers or guardians till this Act placed them under special provisions. Surely it cannot be inferred merely from the reconstitution of the bodies having the general powers, that those to whom a special jurisdiction has been given are superseded. Besides, the whole context corroborates this interpretation. It expressly relates to the guardians appointed under the 22 Geo. 3, c. 83 (Gilbert's Act): those are guardians with general powers, established for the ordinary purposes of a general administration. The guardians under Acts relating to poor-houses, or workhouses, are guardians of the same kind; and guardians under any Local Act for the relief of the poor, is an expression evidently alluding to persons having the same general

and sealed by the said commissioners, to one of his Majesty's principal secretaries of state; and if at

functions. The conclusion then is, that the commissioners have no power to supersede the guardians appointed under the 7 Geo. 3, c. 39, but that they must be elected as heretofore till an Act is passed to deprive them of their functions. And not only will the same guardians continue, but also those various regulations which are made peremptory by the Act, and which are perhaps the most curious of all the poor law provisions. Thus, as it has been, so it must continue to be, and the commissioners cannot order to the contrary, because the Act leaves no discretion, but provides peremptorily, that infants not suckled by their mothers, if under two years of age, shall be sent into the country not less than five miles, and if above two but under five, not less than three miles from London and Westminster. (s. 3.) That is, a place more healthy than the metropolis, which is only three per cent. less healthy than the most longevous place in England, must be found for its pauper children. Accordingly in the neighbourhood of Beulah Spa, amid the beauties of Norwood, is one of these establishments. As it has been, so it must continue, because the Act provides, that not less than half-a-crown a-week per head shall be paid for the nursing of children under six, and two shillings afterwards, till they are put out apprentice. (s. 4.) That the details too, into which Parliament could not descend, might be on a scale of expence corresponding with these specimens, ("to guard against all dangerous consequences from false parsimony," are the words of the Act,) the Act provides, that the guardians shall be of the class of noblemen or gentlemen. All these absurdities remaining a part of the law of the land, the commissioners who can only make orders according to the existing law, have no power to effect the desirable reformation. 4th, The next subject specified is, *The apprenticing of poor children*. On this subject the present Act makes no alteration in the law, except that to secure a conformity with the rules which this section empowers the commissioners to make on this subject: it imposes (s. 61) on justices the duty of certifying that such rules have been complied with. On examination of the law of apprenticeship, the commissioners probably will find this ground so entirely occupied by the justices, that no regulation of theirs of any important use could be effectuated. Most of the regulations relating to apprenticeships are contained in the 56 Geo. 3, c. 139; of which the House of Commons had repealed so much as restricted the distance within which a child may be sent apprentice to forty miles from the place of its settlement. But by the Lords this alteration was

any time after any such general rule shall have been so sent to such principal secretary of state his Ma-

rejected, probably from the superficial humanity which *felt* for the removal of a child from the place of its birth, but failed to see, that as far as the redress of any practical grievance arising to it during the apprenticeship was concerned, forty miles, the distance allowed, would be of the same effect as two hundred; or that the same impunity with which ill-treatment might be practised in the factories of Manchester, Huddersfield, or Leeds, would attend it within the borders of the child's own county, aye, even within a stone's cast of the mansions of the apprenticing justices. *5th*, Rules and orders may be issued for the control of guardians, vestries, and parish officers, as to several specified matters; viz. *First*: As to the management and relief of the poor. *Second*: The keeping, examining, auditing, and allowing of accounts. The allowance of overseers' accounts is already subject to various unrepealed statutory regulations, and as the power of the commissioners is a power not to alter the law but to keep its administration true and uniform, it follows that the orders of the commissioners on this subject must be ancillary to or consistent with the statutory regulations. *Third*: As to the making and entering into contracts in all matters relating to such management and relief, or to any expenditure for relief. As to which see *post.*, sect. 51.

Lastly is expressed the degree of discretion given to the commissioners in respect of these general rules and orders. *They may make such rules and orders as they think proper*, which in terms seems to be an absolutely discretionary and unrestricted power; yet, it is clear, that this is a merely subordinate and instrumental power: It is "for executing the powers given by this Act"—what powers? Amongst others, the power of controlling and directing the administration of relief; which power, when reduced from this its generality and carried into details, seems to involve, as its component parts, the several other powers of "management," "government," "superintendence," &c. specified in the after part of the section as to particular subject matters. Though, therefore, in a degree the power to make rules is discretionary, yet being merely subordinate and instrumental, in the character of an instrumental power, it is subject to the same limitations as this and these its principal powers. Now the administration of relief is to be subject to the control of the commissioners according to the existing law: "*The administration of relief, according to the existing laws, shall be subject to the control of the commissioners;*" that is, it is to be an administration according to law, the courts of justice still

Majesty, with the advice of his privy council, shall disallow the same or any part thereof, such general

If disallowed by king in council during the 40 days, not to come into operation.

being the interpreters of the law, and the innovation being chiefly that new persons (commissioners) with new relations (an immediate dependence on the Home Office) and a new extent of jurisdiction, are to direct and control it. For an administration controlled by the commissioners to be according to law, the commissioners must modify the controlling instruments according to law. Adopt a different interpretation of this part of the enactment and supply the ellipsis accordingly; it would then run thus: "That the administration of relief *according to the existing laws* shall be subject to the control of the commissioners in such manner, and to such effect, that they may make rules *subversive of, and repugnant to*, the existing law, if they think proper." Would Parliament employ a circumlocution so absurd, to empower the commissioners to annul unrepealed Acts of Parliament? The ellipsis involves the same absurdity, (if it were so supplied) if the same interpretation is put upon it.

It may however, be said, that this interpretation rests wholly on the peculiar meaning given to the phrase, "administration of relief to the poor, according to the laws in force for the time being:"—that I have given it too extensive a meaning; that the reasons for qualifying the powers of the commissioners as to the administration of relief, do not apply to the other parts of the system; and consequently that, though the administration of *relief to the poor* must be controlled according to law; yet, as to every thing else, and particularly as to the subjects enumerated in the second branch of the section, the commissioners have an unqualified discretion. I protest I only wish to come at the right interpretation, and I am bound to give what seems to me a complete answer to this objection. If it is a just one, the section may be read as two distinct substantive provisions, which ought indeed to have been divided into two sections. But the fact is of considerable weight, that it is only one section, for between the two parts, there is manifestly *some connection of idea*, which must be taken as the cause of their juxtaposition, and which, as such, affords at least a partial criterion of the meaning. Now, the inference from this test clearly is, that Parliament, in the second branch of the section, considered itself as treating of the same subject *in detail*, as was placed in the first branch under the control of the board, by means of a general description, and the two together show that the aggregate idea was every thing included in the poor law system. And an examination of the subjects detailed will prove this general correspondence

rule, or the part thereof so disallowed, shall not come into operation, if such disallowance be notified to the

between the two branches of the section. There is, 1. the management of the poor. Does it not involve their relief, and the conditions on which it is to be given? 2. The government of workhouses. Does it not include the control of the diet and mode of lodging, and the conditions on which this board and lodging are to be given. 3. The management of parish children within the bills of mortality. Only look at the Act referred to and say, whether this management does not consist in relieving, and in things ancillary to relieving. 4. The regulating the houses wherein these children are kept. What is this but an amplification relating to the same subject, the management of the children. 5. The control of parish officers, &c. 1. As to relief: A repetition of the subject of the first branch of the section. 2. As to the keeping, examining, auditing, and allowing of the accounts. Why, without a control over those, it is manifest there could be no effective control over the administration of relief; and therefore this subject would certainly pass as a necessary incident, under the first branch of the section. The same remark applies to the making of contracts; suppose, for example, the commissioners ascertain that relief to the poor can be given at so much per head, if contracts for supplies are made in a particular manner, could they not say, in virtue of their general powers of controlling *relief*, "Your relief shall cost only so and so, and to secure the greatest amount of relief possible at such a price, we direct your purchases and contracts to be made under such and such qualifications." It appears then, that to control the administration of relief effectually, the commissioners must control not only the relief but things incident to it, and that the two branches of the section are identical in effect, differing from one another only in this, that one gives a power in a general way, and the other the same power in detail. Observe, also, the difficulty that would arise on the opposite interpretation. As to the administration of relief to the poor, it is confessed that the power of the commissioners is qualified; but it is said, that as to the subjects specified in the second branch of the section, the commissioners have an unqualified discretion. But such an interpretation completely destroys the first branch of the section; for, taking it in the narrow sense supposed, its whole subject, viz., relief to the poor, is included in the second branch, and the two would be in this direct opposition, namely, that the one requires relief to be according to law, and the other dispenses with the law as to the whole sum, substance, and mode of relieving.

said commissioners at any time during the said period of forty days; but if such disallowance be made at any time after that period, such disallowance shall, by one of his Majesty's principal secretaries of state, be notified to the said commissioners, and from and after such disallowance shall have been so notified then such general rule, so far as the same shall have been so disallowed, shall cease to operate, subject however and without prejudice to all acts and transactions under or in virtue of the same previously to such disallowance having been so notified (*p*).

If disallow-
ed after-
wards.

From the interpretation clause of this Act, unfortunately little or no assistance can be drawn with reference to this, or indeed any other debateable construction. It defines "Poor Laws," and "Laws for the Relief of the Poor," a phrase including, as is seen, the words under discussion, in the following manner:—"Laws for the relief of the poor shall be construed to include *every Act of Parliament* for the relief or *management* of the poor,"—that is, relief is to be taken as a large term, including not only the bread and money given, but also the conditions on which they are given—"or relating to the execution of the same"—what *execution*? what *same*? as near as can be guessed, it must mean that laws for relief include laws relating to all the offices, duties, and acts of those by whom relief is given, and, therefore, as far as any inference can be drawn from this interpretation as to the meaning of relief, it supports the interpretation given of the phrase, "administration of relief" as used in the first branch of the 15th section.

To the above argument I have only to add one remark by way of qualification. The limitation contended for with reference to the powers of the commissioners, of course applies to such of their powers, or such parts of their powers, as are given and regulated solely by the 15th section. Powers given by other sections, and not included in that section—such as building powers; powers for forming, dissolving, enlarging, or diminishing unions, are to be construed according, not to the 15th, but to those sections: and such parts also of the powers given first in the 15th, as are modified by subsequent sections, are to be interpreted with reference to such modifications.

(*p*) Collectively stated the provisions respecting these rules are as follow:—They are first to be laid before one of the principal secretaries of state (of course it will be the secre-

General
rules to be
laid before
parliament.

XVII. And be it further enacted, That all general rules for the time being in force at the commencement of every session of parliament, and which shall not previously have been submitted to parliament, shall from time to time, within one week after the commencement of every such session, be laid by one of his Majesty's principal secretaries of state before both houses of parliament (*r*).

PROMULGATION OF GENERAL RULES.

Rules, or-
ders, &c. to
be sent to
overseers,
&c. before
they shall
come into
operation.

XVIII. And be it further enacted, that a written or printed copy of every rule, order, or regulation tary for the home department) ; they are not to come into force for forty days afterwards ; nor at all, if disallowed within the forty days by the privy council. But if not disallowed within that period, they may be put into operation, subject still to the same power in the privy council of disallowing them at any time after. (s. 16.) No rule will have any operation as such unless sealed with the official seal of the commissioners (s. 3) ; nor until fourteen days after it has been sent out by the commissioners. (s. 20.) The form of putting the rules into operation is prescribed in the 18th section. A written or printed copy is to be sent to the overseers of parishes, and to the guardians, or their clerk, of unions or incorporations, and another copy to the clerk of the petty sessions for the division. The persons who have the custody of the rules are bound to give copies of them, or to allow copies to be taken, being paid a certain price for them. But the commissioners can also direct what publicity shall be given to them. (s. 18.) The rules of the assistant commissioners are to have no force till approved by the commissioners, and sealed with their seal of office. (s. 20.) And a rule will have no force in parishes and unions, to whose officers there has not been this formal promulgation. (s. 18.) If also any rule, after having come into operation, is disallowed, a similar notice of the disallowance is to be given. (s. 18.) All new general rules are to be laid before both Houses of Parliament by one of the secretaries of state, in the first week of the next following session. (s. 17.) A default in this respect, however, will not invalidate the rule. And every rule is removable into the Court of King's Bench, and that court only, by certiorari. (s. 105.) All rules are to be deemed general rules that are addressed to more than one union. (s. 42.)

(*r*) See *ante*, p. 54, n. (*d*)

of the said commissioners shall, before the same shall come into operation in any parish or union, be sent by the said commissioners, by the post, or in such manner as the commissioners shall think fit, sealed or stamped with their seal, addressed to the overseers of such parish, the guardians of such union or their clerk, and to the clerk to the justices of the petty sessions held for the division in which such parish or union shall be situate; and such overseers, guardians, or their clerk, and clerks to the justices aforesaid, are hereby required to keep and preserve, notify and give publicity to, such rules, orders, and regulations, in such manner as the said commissioners shall direct, and also to allow every owner of property or his agent, or any rate-payer, in every such parish or union, to inspect the same at all reasonable times, free of any charge for such inspection, and to furnish copies of the same, being paid for such copies at and after the rate of three-pence for every folio of seventy-two words, and to allow copies or extracts thereof to be taken on being paid for so doing after the rate of three halfpence for every folio of seventy-two words; and in case any such overseer, guardian, clerk, or clerk to the justices, to whom such rules, orders, or regulations, or copies thereof, shall be sent as aforesaid, shall neglect to keep and preserve, notify and give publicity to the same in the mode prescribed or directed by the said commissioners, or shall refuse such inspection, or to furnish or allow such copies thereof to be taken as aforesaid, every person so offending shall for every such offence be subject and liable to a penalty not exceeding the sum of ten pounds nor less than forty shillings, to be recoverable in the same manner as any penalties are by this Act directed to be recovered: Provided also, that if any such rule shall after the same shall have come into operation be disallowed in manner herein-before mentioned, or revoked by the said commissioners, then and in every such case the said commissioners

Publicity to be given to rules, &c. in manner directed by commissioners.

Penalty on overseers, &c.

Disallow-ance of rule to be notified.

shall send, by the post, or in such manner as they shall think fit, to every parish or union affected by the said rule, notice of such disallowance or revocation ; such notice of disallowance or revocation to be addressed, kept, preserved, notified, and publicly inspected, and copies thereof furnished or allowed to be taken, in such and the same manner and subject to the same penalties as are herein-before mentioned respecting the rules, orders, and regulations of the said commissioners (s).

WORKHOUSE POLICE.

Inmate of
workhouse
not obliged
contrary to
his religious
principles,
&c.

XIX. And be it further enacted, That no rules, orders, or regulations of the said commissioners, nor any bye-laws at present in force or to be hereafter made, shall oblige any inmate of any workhouse to attend any religious service which may be celebrated in a mode contrary to the religious principles of such inmate, nor shall authorize the education of any child in such workhouse in any religious creed other than that professed by the parents or surviving parent of such child, and to which such parents or parent shall object, or, in the case of an orphan, to which the godfather or godmother of such orphan shall so object: Provided also, that it shall and may be lawful for any licensed minister of the religious persuasion of any inmate of such workhouse, at all times in the day, on the request of such inmate, to visit such workhouse for the purpose of affording religious assistance to such inmate, and also for the purpose of instructing his child or children in the principles of their religion (t).

(s) See *ante*, p. 55, n. (g).

(t) Much party-fire has been wasted over this section,—the real character of which seems to be, that on the one hand it is a mere regulation of police in favour of the inmates of workhouses, to prevent, in their case, any infraction of the right of non-conformity possessed by all who are not in a workhouse ; superadded to which is a provision, to secure to them a privilege which might be deduced as a legitimate consequence of the Toleration Act.

RULES OF ASSISTANT COMMISSIONERS.

XX. And be it further enacted, That no order or regulation made by any assistant commissioner shall be in force unless and until the same shall have been adopted by the said commissioners, and sealed or stamped with their seal, and thereupon every such order or regulation shall be considered as made by the said commissioners ; and that no rule, order, or regulation of the said commissioners, except orders made in answer to the statements and reports hereinafter authorized to be made by overseers or guardians to the said commissioners, shall be in force until the expiration of fourteen days after a written or printed copy of the same shall have been sent by the said commissioners, sealed or stamped, and addressed as lastly herein-before is mentioned (*u*).

Orders of assistant commissioners to be approved by commissioners.

WORKHOUSE-BUILDING-POWERS.

XXI. And be it further enacted (*x*), That, except where otherwise provided by this Act, all the powers

Powers of all acts relating to work-houses to be under control of commissioners.

(*u*) See *ante*, p. 71, n. (*p*).

(*x*) This section and the 23rd and 24th sections contain the principal provisions relating to workhouses, particularly as to the building of new, and the altering and enlarging of existing ones.

The 21st section effectuates as to certain specified powers what the 15th section effectuates as to the administration of relief generally. It puts all previously existing powers whatever connected with the system of administering relief in workhouses, powers of building, &c., of furnishing, &c., of dieting, &c., of raising money, &c., under the control of the commissioners. Whenever, therefore, any of this class of powers, not repealed by this Act, or not superseded by the new local organizations, are proposed to be exercised, they can be exercised only with the consent and approbation of the commissioners.

The 23rd section is of narrower extent, that is, it includes only a portion of the subjects of the 21st section, and as to

and authorities given in and by a certain Act of Parliament passed in the twenty-second year of the reign

such portion it gives the commissioners an initiative power, the power of proposing, and with the consent in writing of a majority of the guardians, or of the rate-payers and owners, of ordering and directing the erection, hiring, or enlargement of a workhouse, or the conversion of any parish building into a workhouse, and the purchase or hiring of any land necessary for these purposes.

The 25th section is, in respect of its subjects, of still less extent than the 23rd section, but it gives larger powers to the commissioners. It relates only to parishes and unions, that either have a workhouse, or a building capable of being converted into one, and gives the commissioners power to alter or enlarge such workhouse or building without the consent of the parties, whose consent must be obtained to the exercise of the powers under the 23rd section.

Such is the precise scope and effect of these sections, but it remains to notice the limitations separately attached to them. In the last case, that is, where under the 25th section the commissioners exercise the powers given them by that section, of ordering a workhouse to be altered or enlarged, or another building to be converted into one, *upon their own sole discretion, and without the consent* of the vestry or guardians, the expence is not to exceed 50*l.*, or one-tenth of the average annual amount of the rates for three years preceding.

In the next previous case, that is, where the consent of the guardians or owners and rate-payers has been obtained to the exercise of the powers given by the 23rd section, the limitation is, that the whole expence shall not exceed ten years' rates on the average of the rates for the three years preceding, and that no more shall be raised in any one year for the defraying of such expence than the annual average of the rates for the three years preceding: that is, supposing the rate raised on any parish to be 500*l.* a-year on an average of three years, the owners may consent to spend such a sum as with interest will amount to 5000*l.*, but must not raise more than 500*l.* in any one year for the payment of it. Where, therefore, this power is exercised, the parish will have—1. The expence occasioned by it, which may be equal to the whole amount of the rates previously. 2. The expence of relief. 3. The expence of utensils for the workhouse, and of salaries for the officers; by which, in the aggregate, in any one year the rates may be quadrupled or quintupled, and a parish of small rate-payers may be in the predicament which is often seen in the case of individuals, of being ruined by the demands for incidental charges after having satisfied the chief demand, which,

of his late Majesty King *George* the Third, intituled *An Act for the better relief and employment of the poor*, and in and by a certain other Act passed in the fifty-ninth year of the reign of his said late Majesty, intituled *An Act to amend the laws for the relief of the poor*, and all Acts for amending such Acts respectively, and also all the powers and authorities given by every other Act of Parliament, general as well as local, for or relating to the building, altering or enlarging of poorhouses and workhouses, and to the acquiring, purchasing, hiring, holding, selling, exchanging, and disposing thereof, or of land whereon the same may have been or may hereafter be erected, and of preparing such houses for the reception of poor persons, and the dieting, clothing, employing, and governing of such poor, and the raising or borrowing of money for any of the purposes aforesaid, and for repaying the same, and all powers of regulating and conducting all other workhouses whatsoever, and of governing, providing for, and employing the poor therein, and all powers auxiliary to any of the powers aforesaid, or in any way relating to the relief of the poor, shall in future be exercised by the persons authorized by law to exercise the same, under the control, and subject to the rules, orders, and regulations of the said commissioners; and the said commissioners and assistant commissioners respectively, and every of them, shall be entitled to attend at every parochial and other local, board and vestry, and take part in the discussions, but not to vote at such board or vestry: Provided always, that nothing herein con-

Commis-
sioners, &c.
entitled to
attend local
boards and
vestry.

as in the instance of this limitation, was the only expence regarded in the preliminary calculation.

In the first mentioned case, however, that is, of the exercise of previously existing powers not repealed by this Act and not superseded by the new regulations,—whether those powers relate to building or to any other of the contingents of the workhouse system,—this Act imposes no limitation, and therefore, such powers, when exercised, are subject only to previously existing limitations. For these see 2 Nolan, 380.

tained shall be construed to give the said commissioners or assistant commissioners any power to order the building, purchasing, hiring, altering, or enlarging of any workhouse, or the purchasing or hiring of any land at the charge or for the use of any parish or union, save and except so far as such powers are expressly given by this Act.

BYE-LAWS OF EXISTING UNIONS.

No additions, &c. to be made to rules contained in the 22 G. 3. c. 83, or other Acts till confirmed by commissioners.

XXII. And whereas by the said Act made and passed in the twenty-second year of the reign of his late Majesty King *George* the Third it is (among other things) enacted, that the rules, orders, and regulations specified and contained in the schedule thereunto annexed should be duly observed and enforced at every poorhouse or workhouse to be provided by virtue of the said Act, with such additions as should be made by the justices of the peace of the limit wherein such house or houses should be situate, at some special session, provided that such additions should not be contradictory to the rules, orders, and regulations established by that Act, and provided that the same should not be repealed by the justices at their quarter sessions of the peace; and it is expedient that such additions, or other rules, orders, or regulations, under that or any local or other Act, should not in future be made without the sanction of the said commissioners; be it therefore enacted, That no additions or alterations shall hereafter be made to or in the rules, orders, and regulations contained in the schedule to the said recited Act, and no rules, orders, and regulations shall hereafter be made under the authority of the said recited Act, or of any Act made for altering, amending, or extending the same, or any local or other Act, relating to poorhouses, workhouses, or the relief of the poor, until the same shall have been submitted to and approved and confirmed by the said commissioners; and that the same, when so confirmed, shall

be legally valid and binding upon all persons; and no justice or justices shall have power to repeal the same (*y*).

WORKHOUSE-BUILDING-POWERS.

XXIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby empowered, from time to time when they may see fit, by any writing under their hands and seal, by and with the consent in writing of a majority of the guardians of any union, or with the consent of a majority of the rate-payers and owners of property entitled to vote in manner herein-after prescribed, in any parish, such last-mentioned majority to be ascertained in manner provided in and by this Act, to order and direct the overseers or guardians of any parish or union not having a workhouse or workhouses to build a workhouse or workhouses, and to purchase or hire land for the purpose of building the same thereon, or to purchase or hire a workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses; and, with the like consent, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any buildings capable of being converted into a workhouse or workhouses, to enlarge or alter the same in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution, or to build, hire, or purchase any additional workhouse or workhouses, or any building or buildings for the purpose of being used as or converted into a workhouse or workhouses, or to purchase or hire any land for building such additional workhouse or workhouses thereon, of such size and description, and according to such plan, and in such manner as the said commissioners shall deem most proper for carrying the

Commis-
sioners to
order
work-
houses to
be built, &c.
with con-
sent, &c.

(*y*) See *post.*, p. 85, note to section 29.

provisions of this Act into execution ; and the overseers and guardians to whom any such order shall be directed are hereby authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for purchasing or hiring land, or for building, hiring, and maintaining workhouses for the use of the poor, in their respective parishes or unions, or to borrow money for such purposes under the provisions of this or any other Act or Acts (z).

BORROWING-POWERS.

Sums for building work-houses charged on poor rates not to exceed one year's amount of rates.

XXIV. And be it further enacted, That for the better and more effectually securing the repayment of any sum or sums of money which may be borrowed for the purposes aforesaid, with interest, it shall be lawful for the said overseers or guardians to charge the future poor rates of such parish or union with the amount of such sum or sums of money : Provided always, that the principal sum or sums to be raised for such purposes, whether raised within the year or borrowed, shall in no case exceed the average annual amount of the rates raised for the relief of the poor in such parish or union for three years ending at the Easter next preceding the raising of such money ; and that any loan or money borrowed for any of the purposes aforesaid shall be repaid by annual instalments of not less than one-tenth of the sum borrowed, with interest on the same, in any one year (a).

WORKHOUSE-BUILDING-POWERS.

Power to order work-

XXV. And be it further enacted, That it shall be lawful for the said commissioners, and they are

(z) See *ante*, p. 75, n. (x).

(a) See *ante*, *Idem*.

hereby empowered, without requiring any such consent as aforesaid, by any writing under the hands and seal of the said commissioners, to order and direct the overseers or guardians of any parish or union having a workhouse or workhouses, or any building capable of being converted into a workhouse or workhouses, to enlarge or alter the same, according to such plan and in such manner as the said commissioners shall deem most proper for carrying the provisions of this Act into execution; and the overseers or guardians to whom any such order shall be directed are hereby authorized and required to assess, raise, and levy such sum or sums of money as may be necessary for the purposes specified in such order, by such powers, ways, and means as are now by law given to or vested in churchwardens and overseers or guardians of the poor for altering, enlarging, and maintaining workhouses for the use of the poor in their respective parishes or unions: Provided always, that the principal sum or sums to be raised for such purposes, and charged upon any parish, shall not exceed in the whole the sum of fifty pounds, nor in any such case exceed one-tenth of the average annual amount of the rates raised for the relief of the poor in such parish for the three years ending at the Easter next preceding the raising of such money (*b*).

houses to be altered, &c. without consent, &c.

Sums raised for such purposes not to exceed tenth of one year's rates, or 50%.

UNION-POWERS.

XXVI. And be it further enacted (*c*), That it shall be lawful for the said commissioners, by order under

Parishes may be united by commissioners.

(*b*) See *ante*, p. 75, n. (*x*).

(*c*) By this section the commissioners are empowered to unite any number and such parishes as they may think fit, by an order declaring them to be a union: and to remove the obstacle to the exercise of this power, which might arise from already existing unions, the 32d section empowers the commissioners to dissolve, add to, or take from these latter unions, and put any of their parishes into the new unions.

The union being formed, the workhouse or workhouses

their hands and seal, to declare so many parishes as they may think fit to be united for the administration of the laws for the relief of the poor, and such parishes shall thereupon be deemed a union for such purpose, and thereupon the workhouse or workhouses of such parishes shall be for their common use; and the said commissioners may issue such rules, orders, and regulations as they shall deem expedient for the classification of such of the poor of

belonging to any of the united parishes, are to be used as the workhouses of all of them, or as the common workhouse of the entire union; and where a parish having no workhouse before, thus acquires the use of one, it will be liable to pay to the parish from which this benefit is received, a sum, to be ascertained by the commissioners, equivalent to the value of the acquisition (s. 32).

The expences of the united parishes are considered under two divisions; the expences of maintenance or relief, properly so called;—and the expences for buildings, furniture, utensils, paid officers, &c., comprising all the general expences incident to a management in workhouses and in unions. Each parish is to pay the expence of its own poor, whether relieved in or out of the workhouse (*suprà*). The other expences are provided for as follows, in the 28th section:—The 28th section requires the commissioners, on the formation of a union, to inquire what were the expences of such parish for the relief of its poor, whether in or out of the workhouse, for the three years next preceding, and the annual average of such expence is to give the proportion in which each parish is in future to contribute—to *what?*—to a *common fund*—*for what?*—not for all the expences, but for purchasing, building, hiring, or providing, altering, or enlarging any workhouse, or for the purchase or renting of any land or tenements, and for the future upholding and maintaining of such workhouses, and the payment or allowance of the officers of such union, and the providing of utensils and materials for setting the poor on work thereon, and for any other expence to be incurred for the common use or benefit of the parishes.

Every three years the commissioners may take the like averages afresh, and fix anew, according to the proportions of the averages to one another, the future contributions towards the above specified expences and items.*

* It may be useful to give a caution here against confounding the provisions of the 28th with those of the 29th section, or *vice versa*; for, though their object is the same, and their policy and principle manifestly the same, and the latter is even entitled in the margin the “like provision,” they are very different provisions, (see *post.*, n.)

such united parishes in such workhouse or workhouses as may be relieved in any such workhouse, and such poor may be received, maintained, and employed in any such workhouse or workhouses as if the same belonged exclusively to the parish to which such poor shall be chargeable; but, notwithstanding such union and classification, each of the said parishes shall be separately chargeable with and liable to defray the expence of its own poor, whether relieved in or out of any such workhouse.

Each parish chargeable for its own poor.

RELIEF.

XXVII. And be it further enacted, That in any union which may be formed under this Act it shall be lawful for any two of his Majesty's justices of the peace usually acting for the district wherein such union may be situated, at their just and proper discretion, to direct by order under hands and seals, that relief shall be given to any adult person who shall from old age or infirmity of body be wholly unable to work, without requiring that such person shall reside in any workhouse: Provided always, that one of such justices shall certify in such order of his own knowledge, that such person is wholly unable to work, as aforesaid; and provided further, that such person shall be lawfully entitled to relief in such union, and shall desire to receive the same out of a workhouse (*d*).

Justices may order out-door relief to aged and infirm persons wholly unable to work.

UNION-EXPENCES.

XXVIII. And be it further enacted, That when any union of parishes for the administration of the laws for the relief of the poor shall be proposed to be made or shall be made under the provisions of this Act, it shall be lawful for the said commissioners, and they are hereby required, from time to time, by such means and in such manner as they may think fit, to inquire into and ascertain the

When union of parishes proposed, commissioners to inquire the expence of poor of each parish for three years preceding.

(*d*) See *ante*, Gen. Int. View, p. 31, and *post.*, ss. 52. 54.

expenditure incurred by each parish proposed to form part of such union for the relief of the poor belonging to such parish, whether such relief shall have been given in or out of any workhouse, for the three years ending on the twenty-fifth day of March next preceding such inquiry, and thereupon the said commissioners shall proceed to calculate and ascertain the annual average expenditure of each parish for that period; and the several parishes included or proposed to be included in such union shall from the time of effecting the same contribute and be assessed to a common fund for purchasing, building, hiring, or providing, altering or enlarging any workhouse or other place for the reception and relief of the poor of such parishes, or for the purchase or renting of any lands or tenements, under and by virtue of the provisions of this Act, of or for such union, and for the future upholding and maintaining of such workhouses or places aforesaid, and the payment or allowance of the officers of such union, and the providing of utensils and materials for settling the poor on work therein, and for any other expenditure to be incurred for the common use or benefit or on the common account of such parishes, in the like proportions as on the said annual average of the said three years such relief had cost each such parish separately, until such average shall be varied or altered as herein-after provided: Provided always, and the said commissioners are hereby authorized, if they shall so think fit, but not otherwise, from time to time, either upon the application of the guardians of such union or of the overseers of any parish forming part of the same, or without such application, to cause a like inquiry and calculation to be made and average ascertained for the three years ending on the twenty-fifth day of March next preceding such inquiry; and from and after the ascertaining of any such average, or of any succeeding average, the respective parishes of such union shall contribute and be assessed to the common

Power for
taking
future
averages.

fund thereof, for the purposes aforesaid, in the proportions which the expence of such parishes shall be found to have borne to each other during such period upon the average which shall have been so last ascertained, until a like inquiry shall be again made, and a new average and proportion ascertained for the future assessment of such parishes.

EXPENCES OF GILBERT'S, &c. INCORPORATIONS, &c.

XXIX. And whereas in divers unions (*e*) formed under the said recited Act made and passed in the

A different provision in unions under local acts.

(*e*) It will probably be found useful to bring under one head—and this seems to be as proper a place as any for it—the chief provisions of the present Act specially affecting incorporated places, and districts incorporated previously to this Act.

It may be premised, that within the space of a few years before and after the passing of the statute 22 Geo. 3, c. 83, commonly called Gilbert's Act, several incorporations were formed under local acts on a similar plan, with similar details. In general, all those incorporations are affected by the special provisions of this Act in the same manner as Gilbert's incorporations; and consequently, the present note applies equally to all of them.

In several sections, Gilbert's act is expressly mentioned, in others it is alluded to in terms of general reference, and in others the incorporations formed under it are affected by enactments relating indiscriminately to all unions. To analyse this mass will be a difficult task, to digest it almost an impossible one; for a digest presupposes a clear and settled meaning, completeness in the design, and not such a chaos of contending and cross meanings as these provisions.

In presenting the different sections, relating to this subject, I shall follow the order in which the total effect can be most easily observed or retained by the reader.

1. *As to the formation of future incorporations.* By the 37th section of the present Act, it is enacted that no union or incorporation shall be formed under Gilbert's Act without the consent of the commissioners. And as powers of a much more plastic kind for the formation of unions are created by the present act, it is not likely that this consent will be either required or given. Gilbert's Act, therefore, may be considered as obsolete with respect to parishes that have not availed

22d year of the reing of his late Majesty King George the Third, intituled *An Act for the better Relief*

themselves, previous to the passing of this Act, of its provisions.

2. *As to the rules, orders, bye-laws, and regulations of incorporations.* Gilbert's Act (sec. 34) prescribes (and some of the local do the same) a collection, eleven in number, of rules, orders, bye-laws, and regulations permanently to be observed at the poor-house of every incorporation, and empowers the justices of the district to make additions to such rules, but not such as are contradictory to them. The 22nd section of the present Act provides, that such additions shall not be made without the confirmation of the commissioners, and that when confirmed, the justices shall not repeal them. And as to the rules specifically prescribed in Gilbert's Act, or in any local Act, the 42nd section of the present Act empowers the commissioners, as and when they think fit, to alter any of them. The 42nd section also gives the commissioners a general power to make rules, orders, and regulations for all workhouses, either under Gilbert's Act, or under any general or local Act of Parliament. (See *post.*, note to section 42.)

3. *As to the election of guardians for existing incorporations.* On this subject the provisions of Gilbert's Act, of the local Acts, and of the present Act are so shackled together, that I am not sure I shall succeed in unravelling them. The former Act directs, that on the formation of the union, two-third parts in number and value of the owners and occupiers in each respective parish shall "nominate and recommend" three persons fit to be guardians of the poor, and three to be governors of the poor-house (sec. 3), of whom the justices are to appoint one for guardian (sec. 7), and one for governor of the poor-house in respect of each parish (sec. 9); and these appointments expire at Easter, when new guardians and governors are to be nominated and appointed in the same manner, unless the persons having the nomination, that is, the rated owners and occupiers, agree for the continuance of the former guardian and governor in office (sec. 14). Upon any vacancy by death, resignation, or removal, a successor is to be nominated and appointed in the like manner (sec. 13). The Act also prescribes the qualification of the voters (sec. 16).

The 41st section of the present Act provides, that all elections of guardians, visitors, and other officers for Gilbert's incorporations shall, so far as the commissioners shall direct, *be made and conducted* according to the provisions of this Act. According then to which of its provisions;—the provisions which regulate the election merely (sec. 40), or accord-

and Employment of the Poor, or under local acts of incorporation, the whole of the expence, as well

ing to those also which fix the qualification of the voters and regulate the constitution of boards of guardians? (sec. 38). The enactment is elliptical, and if the ellipsis can be supplied, one step will be gained towards a probable conclusion. The ellipsis supplied, the enactment, it seems, is, that all elections of guardians, visitors, and other officers for any incorporation shall, so far as the commissioners direct, be according to the provisions of this Act *relating to the subject of elections*; that is, relating to the *making and conducting* of the elections of guardians constituted under this Act. What, then, are these provisions? Surely, as much those which respect the constitution of the board, and the qualification of the voters, as those respecting the mode and times of the election. For *an election, according to law, is not made* unless it is an election of qualified persons by qualified persons, in the mode and at the time appointed; and upon this construction the provisions of Gilbert's Act and all local Acts, are superseded by the commissioners, when they please, as to boards of guardians:—the conclusion is, that the guardians of the incorporations are in future to be elected according to the provisions of this Act contained in its 38th and 40th sections. And this inference is strengthened by the subsequent part of the 41st section, in which the guardians, which must mean the guardians already mentioned—amongst whom, with others are the guardians for Gilbert's incorporations—are spoken of as “guardians appointed under the provisions of this Act,”—which would be an incorrect description of them, unless the various provisions of this Act superseded all other corresponding provisions.

4. *As to the proportions in which the rate is to be assessed in future on the different parishes in the incorporations.* This is the subject of the 29th section. Gilbert's Act requires from the commencement of the union monthly meetings of the guardians, at the first of which two accounts were to be made up; one, an account of the expences which, for brevity, I will at present merely describe as expences for the equal and common benefit of every parish of the union; the other, of the expences incurred by the union for the maintenance merely of the separate poor of each parish belonging to the union. The accounts of a great many other incorporations besides Gilbert's are made up in the same manner under their particular Acts of Parliament. Those two accounts being taken, the sums to be assessed in respect of them, were to be and were permanently fixed (“settled and adjusted”) in the following proportions, namely, the sum in respect of the first

of upholding the united workhouses therein as of maintaining and relieving the poor of the respective

account in proportion to the aggregate average expence of each parish, on account of its poor for the three years next preceding ; the other in proportion to the number of persons sent by each parish to the poorhouse during the first month of the union (s. 24;) that is, if the overseers' accounts of any six parishes of the union were on an average of the three next preceding years in the proportion of 1, 2, 3, 4, 5, 6, such would be the proportion of their respective contributions to the future *first* class of accounts of the union ; and if the poor sent from such six parishes in the first month were in the same arithmetical proportion, such would also be the contribution for maintenance, although the numbers afterwards sent might be in very different proportions. And one consequence has been, that parishes whose pauperism was great when the union was formed, but has since been diminished, contribute beyond their just proportions, while *vice versâ*, parishes in which either population from accidental causes, or pauperism from mismanagement, has made unusual strides, contribute both for the maintenance of their own poor, and for the general support of the house, much less than their just proportions. To remedy this evil, the 29th section makes two distinct provisions, adopting, in fact, the above division of accounts, but rectifying only partially, and to a certain extent, the contributions.

The first of these provisions is, that the commissioners may inquire what for the last three years has been the average annual expence actually incurred in every variety of way by and for each parish of the incorporation, without reference to their actual contributions, which are supposed to be in untrue proportions ; and *that the different proportions found to exist among the averages shall, so far as the commissioners direct, but no further, be the proportions in which the respective parishes shall contribute in future to a common fund for certain specified purposes, which I shall presently show cover some only of the items included in one class of accounts, namely, the first class required to be kept in the incorporations.*

The second remedial provision is, a similar power to take averages at any future time for the purpose of fixing anew the different proportions of future contributions. But there is this difference between the two provisions ; first, that under the latter provision, *the proportions found to exist among the new averages*, that is, those taken under this latter power, *are to be the proportions of the future contributions*, and the commissioners have not the power (contained in the above italics) to modify them ; and secondly, that the sums paid

parishes of such unions, is assessed upon such parishes in the respective proportions fixed at the period

by the different parishes to the common fund under the first assessment of the commissioners, are to be taken (so far as they go) to be the just proportions; whereas, under the former proceeding, the sums paid according to the original averages were regarded as untrue proportions. And this is manifestly a defect in the provision; for, suppose in the case of any parish, under Gilbert's Act, the old proportion, in respect of the first class of accounts, to be *one*, and the just proportion to be *ten*, but that the commissioners, for the sake of conciliation, raised the proportion only to five in the first instance, leaving it still one half too low, in the exercise of the discretion given to them; the absence of a similar power to modify the proportions, and the different mode of taking one portion of the account, will in effect make this inequality (so far as it goes) perpetual; the inference is, that either the commissioners should not have the discretionary power at all, or that it should extend to both cases.

To proceed: the averages being supposed to be ascertained, and the commissioners to have determined how far they shall govern the future contributory proportions, it remains to be shown how these averages are to be applied,—that is, *to what account*, or *what items of expenditure*, such are to be the respective contributions. This will appear upon an analysis of the section, in which a repetition of some things already said will, I hope, be excused, in consideration of the great importance of a clear understanding upon this question. *The commissioners having taken the averages, with reference to what branches of expenditure, and to what extent can they alter the contributory proportions of the different parishes?* As a whole, the section (the 29th) which affords an answer to this question, consists of three parts, the recital, the remedial process, and a limitation of the remedy to certain specific particulars. The recital is, that the whole expence, as well (1) of upholding the united workhouses, as (2) of maintaining the poor therein, is assessed in proportions which, owing to their having been fixed when the unions were formed, are in the present day too high in some cases and too low in others. Now, first, observe what proportions are subjected to this objection: all the proportions: not only those assessed for the upholding of the house and supplying it with utensils, but those also which are assessed for the expences of maintenance; that is, the two accounts and two assessments prescribed in Gilbert's Act, are distinctly alluded to, and the same objection is made to both of them; whence it appears, that if the remedy applies to only one class of assessments,

when such unions were formed, and in others a part of such expences is so levied, and a part subjected

and to that class only partially, the defect is one not of policy, but in the structure of the enactment.

The evils then being thus recited, for remedy thereof, comes the remedial process already described, (which I will not repeat as I have described it already, see *suprà* p. 88,) and next comes the clause of limitation; prescribing how far the averages may be applied for the correction of the recited disproportions. As the commissioners find the averages, so they may fix, if they please, the proportions to be in future contributed by the different parishes,—contributed, then, towards what?—*as well towards the expense (1) of upholding the united workhouses as (2) of maintaining the poor therein?* No, but contributed “to a common fund,”—a fund for what?—a fund for the whole expences above recited? No. But a common fund only for the support of the building, and the rent of the land it stands on: the words being, “towards a *common fund for the future hiring, maintaining, upholding, repairing, altering, or enlarging, of any workhouse, and the renting of any land used by the union at the passing of this Act, and for the purchasing, building, hiring, maintaining, upholding, repairing, altering, or enlarging, of any new workhouse, or other place for the reception and relief of the poor of the union, and for the renting or purchase of any land under the provisions of this Act.*” That is, the averages are to govern the proportions of contribution, not as to all the expences of the union, nor, as to all the recited expences, but only as to the specified items; and if these items are compared with the accounts required by Gilbert’s Act to be kept in those incorporations, it will be found, that they form only part of the account marked No. 10, in that statute (s. 24).

Many incorporations besides Gilbert’s, are required to keep their accounts in the same manner; to such incorporations also, this enactment applies, and the consequence as to all of them in point of law is: First, that the commissioners have no power to vary the fixed contributions hitherto paid by the different parts of the incorporation to the account of maintenance (No. 15 in Gilbert’s Act); but as to that account, the existing contributions must continue till altered by a new Act of Parliament. Secondly, the other account, (No. 16) must be split into two accounts, one to include the expences relating to the hiring, maintaining, &c. of the workhouse (see the particulars *suprà* in italics); the other to include all the remaining expences, such as “utensils, materials for the purpose of manufacture, furniture, and salaries

to variations at stated periods : And whereas some of the parishes of such unions have contributed and

to the governor and servants, if any ;" for, such expences are *neither the rent nor the price of land, nor are they expences either of building or upholding, or altering or enlarging of any workhouse*, nor are they contained in any way in the remedial provision : and the said other account being thus split, as to the latter division the existing contributions must continue, and it is with respect to the former alone, that the commissioners can apply their averages for the assessment of new contributory proportions.

Before I proceed to the next subject, I will remark, that of the above provisions, the only portion, the justice of which, so far as it goes, is not obvious, is the discretionary power given to the commissioners—which is in effect the power of saying, "though we have ascertained that the average cost of your poor has been only in the proportion of one to ten, your contributions shall be equal, or *vice versâ*." But, suppose two parishes of nearly the same extent, employing nearly the same amount of labour, but the poor required for the cultivation of both, together with the redundant poor, nearly all settled in one of them. Suppose this inequality to have been occasioned by systematic management, rendered practicable by the circumstance of the one parish belonging, perhaps, to some peer, or to two or three persons, who have combined to prevent settlements. Would it not be just to put the burdens according to the proportions which would probably have existed if there had been no such management, especially as the labour employed in the underpeopled parish has most probably been paid for partly out of the rates of the other, and a profit has been drawn from the neighbouring population by the shopkeeper, the grower of garden stuff, and all the small dealers (if any) of both of them. It is to meet such cases that the commissioners are invested with this power.

5. *Of the building powers of the incorporations.* The powers of building and altering workhouses, and of taking land as sites of workhouses, and certain auxiliary powers are the chief subjects of the 21st, 23rd, and 25th sections. The 21st section puts those powers, in whomsoever vested and *by whomsoever exercised*, under the control of the commissioners ; subject to an exception which is inoperative, because it is an exception by way of reference to other provisions, ("except where otherwise provided") and the Act contains no such supposed contrary provisions ; and subject also to a proviso which is useless because it guards against an absurd and impossible construction. The 21st section having put

still continue to contribute, as their fixed proportion of the general fund, a sum much larger and

the powers specified under the control of the commissioners, the 23rd section enables the commissioners to exercise them with the consent of a majority of the guardians, and the 25th section to exercise *some* of them without such consent; but in both cases—with and without consent—only within certain limitations described above in the note to the 21st section.

6. *Of the boundaries of the incorporations.* These incorporations being formed almost entirely for the sake of having a united workhouse, they are necessarily confined within the distance beyond which no parish can send its poor to any workhouse. This distance is limited to ten miles by the 5th section of Gilbert's Act, but the restriction is taken off by the 31st section of the present Act, with a view probably of enlarging the area of the incorporations, under the powers which the commissioners will probably soon exercise for their reconstruction. The similar restriction applied to unincorporated places by the 56 Geo. 3, c. 129, is also repealed as to such places, and of course its repeal was necessary to effect their junction to a workhouse more than that distance from them.

7. *Of relief to the able-bodied.* The 31st section of the present Act repeals the provisions of the 29th section of Gilbert's Act, which enacts, "That no person shall be sent to the poor-house of any incorporation, except such as are become indigent by old age, sickness, or infirmities, and are unable to acquire a maintenance by their labour; and except such orphan children as shall be sent thither by order of the guardians, with the approbation of the visitor, and except such children as shall necessarily go thither with their mothers." The repeal of this enactment was required to make room for the power given to the commissioners by the 52nd section, by which they are enabled to declare to what extent relief to the *able-bodied* shall be given, in or out of a workhouse.

8. *Of the power of overseers in the incorporations.* The 54th section is for the purpose of depriving overseers of all independent power of giving relief in places that have guardians or select vestries. It is the same in effect as the 7th section of Gilbert's Act, which prohibits churchwardens and overseers "from interfering and intermeddling in the care and management of the poor" in those incorporations. But the 54th section, in cases of sudden and urgent necessity, allows the overseers to give temporary relief in articles of necessity not in money, and if the overseers refuse the sort of

others a sum much less than the actual expence incurred for the relief of the poor belonging to them respectively; for remedy thereof be it enacted, That it shall be lawful for the said commissioners, as soon as conveniently may be after the passing of this Act, to cause an inquiry to be made and an account rendered, as far as it may be practicable to render the same, by the visitors, directors, acting guardians, or other officers of such parishes or unions respectively, of the expence incurred for the relief of the poor belonging to each parish within any such union, whether such poor shall have been relieved in or out of such parish respectively, or in or out of any united workhouse, and whether such expence has been paid by the general fund of such union or the parochial funds of any of the parishes thereof, or by any private rate, or general subscription in lieu of a rate among the rate-payers of any such parish, and whether passed through the books or paid under the control of the managers or officers of such union, or not, for the period of three years ending on the twenty-fifth day of March one thousand eight hundred and thirty-four, including therein a due proportion of the expence of maintaining the united workhouses and establishment of such union, calculated according to the actual expence otherwise incurred for the relief of the poor belonging to each such parish; and the average annual amount of such expence shall be deemed and taken to have been the annual expence incurred by such parish on account of its poor, notwithstanding such parish may have contributed a greater or smaller sum than such annual average to the general funds of the union during such period; and such annual average, so ascertained as aforesaid, shall, if the said commissioners shall see fit, and to such extent only as they may direct, be deemed and relief pointed out, a jurisdiction is given to any justice to order it. (As to relief generally, and the power of the justices to order it, see *ante*, Gen. Int. View, pp. 7, 31, et seq.)

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taken as the fixed proportion to be contributed and paid by each such parish respectively towards a common fund for the future hiring, maintaining, and upholding, repairing, altering, or enlarging, of any workhouse, and the renting of any land used by such union at the passing of this Act, and for the purchasing, building, hiring, maintaining, upholding, repairing, altering, or enlarging of any new workhouse or workhouses, or other place for the reception and relief of the poor belonging to the parishes of such union, and for the renting or purchase of any lands or tenements under or by virtue of the provisions of this Act, and the payment or allowance of any officers of such union, and the providing of utensils or materials for setting the poor on work therein, and for any other expence to be in future incurred for the common use or benefit of such parishes, and in addition to the cost or proportion of cost of the poor of such parishes who shall be maintained or relieved in or out of any workhouse of such union, for which each such parish shall in future be charged separately; any provision or enactment in the said recited Act or in any such local Acts to the contrary notwithstanding: Provided always, and the said commissioners are hereby authorized, if they see fit, but not otherwise, upon the application of the guardians of any such last-mentioned union, or of the overseers of any parish forming part of the same, or without such application, from time to time to cause an inquiry and calculation to be made, and average ascertained, for the three years ending on the twenty-fifth day of March next preceding such inquiry, of the expence incurred by each such parish, as well in respect of its contribution to such common fund as of the cost or proportion of cost of its poor which shall have been maintained or relieved in or out of any workhouse of such union during such period of three years; and from and after the ascertaining of such average or of any succeeding average the

respective parishes of such union shall contribute and be assessed to the common fund thereof, for the purposes of which such common fund is hereinbefore declared to be applicable, in the proportions which the expence of such parishes shall be found to have borne to each other during such period, upon the average which shall have been so last ascertained, until a like inquiry shall be again made, and a new average and proportion ascertained for the future assessment of such parishes to such common fund: Provided always, that nothing herein contained shall extend to any parishes already formed or hereafter to be formed into a union for the purposes of settlement or rating, or where the annual assessment is directed to be indifferently proportioned between the several parishes composing such union.

EVIDENCE.

XXX. And for facilitating the inquiries directed by this Act, be it enacted, That unless and until they shall be proved to the satisfaction of the said commissioners to be incorrect, the returns made to parliament of the sums expended for the relief of the poor of any parish for the last three years previous to the passing of this Act shall be deemed to be the actual expence incurred by each such parish respectively during that period for the purposes aforesaid, and on account of the poor belonging to such parish respectively, and shall be taken as the ground on which such averages shall be calculated and ascertained (*f*).

Parliamentary returns to be conclusive.

WORKHOUSE-LIMITS.

XXXI. And be it further enacted, That from and after the passing of this Act so much of the said recited Act made and passed in the twenty-second year of the reign of his late Majesty King *George the Third*, intituled *An Act for the better Relief*

Repeal of 22 G. 3. c. 83. s. 5. and 56 G. 3. c. 129. part of s. 1. and of 22 G. 3. c. 83. s. 29.

(*f*) See *ante*, p. 92, (n. 6.)

and Employment of the Poor, as provides that no Parish, township, hamlet, or place which shall be situate more than ten miles from any poorhouse or workhouse to be provided under the authority of that Act shall be permitted to be united for the purposes therein mentioned with the parishes, townships, hamlets, and places which shall establish such poorhouse or workhouse as therein mentioned, and as limits the class or description of persons who shall be sent to such poorhouse or workhouse; and so much of a certain Act made and passed in the fifty-sixth year of the reign of his said late Majesty King George the Third, intituled *An Act to repeal certain Provisions in Local Acts for the Maintenance and Management of the Poor*, as repeals all enactments and provisions contained in any Act or Acts of parliament since the commencement of the reign of his late Majesty King George the First, whereby any parish, township, or hamlet at a greater distance than ten miles from any house of industry or workhouse shall thereafter be empowered or authorized to become contributors to or to take the benefit of such house of industry or workhouse; shall be and the same is hereby repealed (g).

UNION-POWERS.

Power to
dissolve,
add to, or
take from
any union;

XXXII. And be it further enacted, That it shall be lawful for the said commissioners, from time to time, as they may see fit, by order under their hands and seal, to declare any union, whether formed before or after the passing of this Act, (except when united for the purposes of settlement or rating,) to be dissolved, or any parish or parishes, specifying the same, to be separated from or added to any such union, and, as the case may be, such union shall thereupon be dissolved, or such parish or parishes shall thereupon be separated from

(g) See *ante*, p. 92, note to section 29 (tit.) 6. of the *Boundaries of the Incorporations et seq.* (tit.) 7. of *Relief to the Able-bodied*.

or added to such union accordingly; and the said commissioners shall in every such case frame and make such rules, orders, and regulations as they may think fit for adapting the constitution, management, and board of guardians of every such union, from or to which there shall be such separation or addition as aforesaid, to the altered state of the same, and every such union shall after any such alteration be constituted, managed, and governed as if the same had been originally formed in such altered state; and in case any union shall be wholly or partially dissolved as aforesaid, then the parishes constituting, or, in case of a partial dissolution, separated from any such union, shall thenceforth be subject to be re-united, or united with other parishes or unions, or otherwise dealt with according to the provisions of this Act as the said commissioners shall think fit: Provided always, that in every such case the said commissioners shall and they are hereby required to ascertain the proportionate value to every parish of such union of the workhouses or other property held or enjoyed by such union for the use of the poor or benefit of the rate-payers therein, and also the proportionate amount chargeable on every parish in respect of all the liabilities of such union existing at the time of such dissolution or alteration of the same, and the said commissioners shall thereupon fix the amount to be received, or paid or secured to be paid, by every parish affected by such alteration: and the sum to be received, if any, by such parish, shall be paid, or, as the said commissioners shall direct, be secured to be paid, to the overseers or guardians of the same, for the benefit of such parish, and in diminution of the rates thereof and of the expence attending such alteration; and the sum to be so paid or secured to be paid by every such parish shall be raised, under the direction of the said commissioners, by the overseers or guardians of such parish, or charged on the poor rates of such

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parish, as the said commissioners may see fit, and shall be paid or secured for the use and benefit of the union from which the same parish shall have been so separated, or of the persons or parishes otherwise entitled thereto, as the case may be: Provided always, that no such dissolution or alteration of the parishes constituting any such union, nor any addition thereto as aforesaid, shall in any manner prejudice, vary, or affect the rights or interests of third persons, unless such third persons, by themselves or their agents, shall consent in writing to such dissolution or proposed alteration or addition; and that no such dissolution, alteration, or addition shall take place or be made unless a majority of not less than two thirds of the guardians of such union shall also concur therein; and in every such case, when the said majority of the guardians of such union shall so concur in such proposed alteration, the terms on which such concurrence shall have been given, if approved by the said commissioners, shall be binding and conclusive on the several parishes of such union.

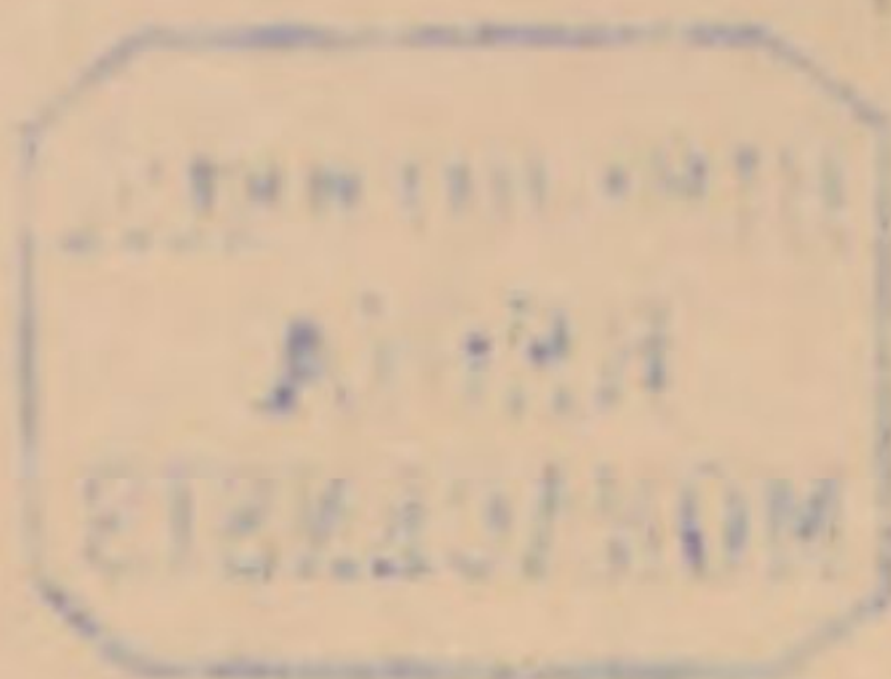
UNION SETTLEMENT-POWERS.

United pa-
rishes may
be one pa-

XXXIII. And be it further enacted (*g*), That in any union already formed or which may hereafter be

(*g*) The 33rd section relates to all unions, as well those existing before the Act, as to the new unions. And, as a step to the enlargement of the area of Settlements, it provides, that the guardians of any union, (subject to the approbation of the commissioners), may agree that the united parishes shall be one, for the purpose of settlement: and this agreement being executed and filed of record in the manner prescribed, settlements which would have been parish settlements, are to be considered as settlements of the union, and the expences incurred in any way on account of persons so settled, are to be paid "out of the common fund of the union."

Two questions may be anticipated to arise out of these provisions. 1. These unions have no common funds, in the sense of a fund raised by one assessment on all the different



formed in pursuance of or under the provisions of this Act, it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, subject to the approbation of the said commissioners, for or on behalf of the respective parishes forming such union, that for the purposes of settlement such parishes shall be considered as one parish; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners, and one part thereof shall be deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians, and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty in which the parishes of such union shall be respectively situate; and the said clerk of the peace shall and is hereby required, upon the receipt of such agreement, or counterpart or counterparts thereof, to file the same with the records of such county, riding,

rish for
purposes of
settlement.

parts of the union. They must, therefore, either make such a fund by agreement, as a necessary means of attaining the object of the settlement-union; or under the power given in the 34th section, they must agree to be one for the purpose of rating, and this latter agreement, seemingly, would alone be sufficient, and would accomplish, in effect, the object of the settlement-agreement.

The other difficulty is, as to the parties necessary and competent to make the agreement. Are the *ex officio* guardians entitled to be parties to the agreement? If not entitled to be *parties*, are they entitled to a voice, and would their opposition to it invalidate the agreement? It is very clear upon the 33rd section, that the *elected* guardians *must* be parties, and that without their consent there can be no agreement. Upon this section also *alone*, it would be clear, that *only* the elected guardians could make the agreement. But then, in the 38th section, comes this proviso, that "*except (amongst other things) for the purpose of consenting to the formation of any union for the purpose of settlement or rating, no ex officio, or other guardian, shall have power to act, except as a member of the board, and at its meeting:*" *prima facie*, implying, that *all* the guardians consent, and

division, district, or liberty ; and from and after the depositing of the same as aforesaid the said agreement shall for ever thereafter be binding on each of such parishes, and shall not be revoked or annulled ; and the settlement of a poor person in any one of the parishes of such union shall be considered, as between such parishes, a settlement in such union, and the expence of maintaining, supporting, and relieving every such poor person, and all other expences of maintaining, supporting, and relieving the poor to which any one of such parishes shall be liable after the depositing of such agreement, part or counterpart as aforesaid, or of ascertaining, litigating, or adjudging the settlement of any poor person in any of such parishes, shall form part of the general expences and be paid out of the common funds of such union : Provided always, that wherever such agreement is entered into as aforesaid the rate or proportion of contribution to such common funds to be thereafter paid by each of the parishes of such that such right of consent is saved by this exception. But if this proviso saves the right of consent to the *ex officio*, it as manifestly also saves it to the “ other guardians,” and as this could not be necessary, such implication is not the true construction. The proviso is subtle.

An apprehended inconvenience is guarded against, which it does not express, but wraps up in a riddle. What are these *ex officio* guardians ? They are all justices of the peace, acting for the county, riding, or division, and so also may be *some* of the elected guardians. The veiled, but real object is, to prevent such from *acting as justices* upon occasions when they are convened to act in the character of guardians. Construed with reference to this object, the exception is this,—that guardians, who are justices, shall act, not as justices, but merely *as members of the board*, save, however, that where they have any special authority under this Act,—such as the authority to agree for common settlements, and which belongs to them, not as members of the board, but rather in the separate character of parish representatives,—their right to act in such manner, shall be reserved to them. Where, therefore, an elected guardian is a justice, this part of the proviso is a saving out of a larger exception, but it has no operation as to mere *ex officio* guardians, or as to justices, who are not elected guardians.

union shall be ascertained and fixed in like manner as in and by this Act is provided for in cases where any union of parishes is made or proposed to be made under the provisions thereof, and shall not be subject to further variation.

UNION RATE-POWERS.

XXXIV. And be it further enacted. That where the parishes of any union shall be situate within the same county, riding, division, district, or liberty, under the jurisdiction of the same justices of the peace, it shall and may be lawful for the guardians elected by the parishes forming such union, by any writing under the hands of all such guardians, to agree, with the approbation of the said commissioners, for or on behalf of the respective parishes for which they shall so act as guardians, that, for the purpose of raising in common the necessary funds for the relief of the poor of such union, such parishes shall be considered one parish; and in such case such agreement, having been first signed by the said guardians, shall be signed and sealed by the said commissioners, and one part thereof be deposited with the said commissioners, and a counterpart or counterparts thereof, signed by the said guardians, and signed and sealed by the said commissioners, deposited with the clerk of the peace of the county, riding, division, district, or liberty, counties, district or districts, in which the said parishes of such union shall be situate; and the said clerk or clerks of the peace shall and is and are hereby required, upon the receipt of such agreement, part or counterpart, to file the same with the records of such county, riding, division, district, or liberty, or counties, district or districts, and from and after the depositing and filing of such last-mentioned agreement or counterpart the same shall be for ever binding upon such parishes, and shall not be revoked or annulled.

Union may be one parish for purpose of rating.

Agreement for such rating to be deposited with clerk of the peace.

VALUATION-POWERS.

Guardians
to assess
value of
property.

Such as-
sessments
to be con-
sidered as
poor rates.

XXXV. And be it further enacted, That from and after such depositing and filing of the said agreement, part or counterpart, the said guardians shall, under such regulations as the said commissioners shall in that respect prescribe, proceed to ascertain and assess the value of the property in the several parishes of such union rateable to the relief of the poor, and to cause to be made such surveys and valuations of the said property, or any part thereof, as may be necessary, from time to time, to make a fair and just assessment upon the said united parishes in respect of such property so rateable as aforesaid; and all rates grounded on every such valuation or assessment shall be made, allowed, published, and recovered in such and the same manner as rates for the relief of the poor are now by law made, allowed, published, and recovered; and the rate-payers shall have the like power of appeal against such last-mentioned rates as any persons now have against rates made for the relief of the poor.

UNION RESULTS.

In such
cases all ex-
penditure
for the poor
to be in
common.

XXXVI. And be it further enacted, That from and after any such common rate shall have come into operation the proportions of contribution fixed at the period of uniting such parishes, or existing at the time of such last-mentioned agreement for a common rate, shall wholly cease: and all expenditure in respect of the poor of such union, or chargeable in any way on the poor rates of the respective parishes thereof, shall be deemed and be the common expenditure of such union, and be chargeable upon and paid out of the common or general fund to be raised upon such parishes under such common rate, according to the valuation or assessment of the

rateable property in such parishes so ascertained, confirmed, and allowed by the said justices from time to time in manner herein-before provided :
 Provided always, that the expence of every such valuation shall at all times be a charge on the common rate of such parishes : Provided always, that in case any parish of any union, at the period of entering into such agreement for the purposes of settlement or a common rate, shall not be represented by a guardian solely elected by such parish, such parish shall not be bound by any such agreement, unless a majority of the owners of property and rate-payers in such parish, entitled to vote in the manner provided by this Act, shall, by their votes in writing, testify their assent to such agreement in such form as the said commissioners shall prescribe ; and in case such assent shall not be so given, such parish shall be wholly omitted from such agreement, and be liable to pay such proportion only of the common assessment as it was bound to pay upon the forming of the union of such parishes (*h*).

Expence of valuation.

Proviso for consent of parishes not represented by guardian.

DISABILITY OF GILBERT'S UNIONS.

XXXVII. And be it further enacted, That from and after the passing of this Act no union or incorporation of parishes shall be formed under the provisions of the said Act made and passed in the twenty-second year of the reign of his late Majesty king George the Third, without the previous consent of the said commissioners, testified under their hands and seal. (*i*)

No union be formed under 22 Geo. III. c. 22, without consent of commissioners.

NEW BOARDS OF GUARDIANS (*j*).

XXXVIII. And be it further enacted, That where any parishes shall be united by order or with the concurrence of the said commissioners for the admi-

Constitution of boards of guardians.

(*h*) See *ante*, p. 99.

(*i*) See *ante*, p. 85, note to section 29.

(*j*) The antecedent references to "note, section 38," should have been to note (*l*), *post.*, p. 106.

nistration of the laws for the relief of the poor, a board of guardians of the poor for such union shall be constituted and chosen, and the workhouse or workhouses of such union shall be governed, and the relief of the poor in such union shall be administered, by such board of guardians; and the said guardians shall be elected by the rate-payers, and by such owners of property in the parishes forming such union as shall in manner hereinafter mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively; and the said commissioners shall determine the number and prescribe the duties of the guardians to be elected in each union, and also fix a qualification without which no person shall be eligible as such guardian, such qualification to consist in being rated to the poor rate of some parish or parishes in such union, but not so as to require a qualification exceeding the annual rental of forty pounds, and shall also determine the number of guardians which shall be elected for any one or more of such parishes, having due regard to the circumstances of each such parish: Provided always, that one or more guardians shall be elected for each parish included in such union; and such guardians, when so elected, shall continue in office until the twenty-fifth day of March next following their appointment, or until others are appointed in their stead, and on such twenty-fifth day of March, or if that day should fall on a Sunday or Good Friday then on the day next following, or within fourteen days next after the said twenty-fifth day of March in every year, such guardians shall go out of office, and the guardians for the ensuing year shall be chosen; and in the event of any vacancy occurring in such board by the death, removal or resignation, or refusal or disqualification to act of any elected guardian between the periods of such first and the next and any subsequent annual election, or in case the full number of guardians shall not be

duly elected at such subsequent election of guardians for the time being, the other or remaining members of the said board shall continue to act until the next election, or until the completion of the said board, as if no such vacancy had occurred, and as if the number of such board were complete; and every justice of the peace residing in any such parish, and acting for the county, riding, or division in which the same may be situated, shall be an ex officio guardian of such united or common workhouses, and shall, until such board of guardians shall be duly elected and constituted as aforesaid, and also, in case of any irregularity or delay in any subsequent election of guardians, receive and carry into effect the rules, orders, and regulations of the said commissioners; and after such board shall be elected and constituted as aforesaid every such justice shall ex officio be and be entitled, if he think fit, to act as a member of such board, in addition to and in like manner as such elected guardians:

Provided always, that except when otherwise ordered by the said commissioners, and also except for the purpose of consenting to the dissolution or alteration of any union or any addition thereto, or to the formation of any union for the purposes of settlement or rating, no ex officio or other guardian of any such board as aforesaid shall have power to act in virtue of such office except as a member and at a meeting of such board; and no act of any such meeting shall be valid unless three members shall be present and concur therein: Power of guardians restricted. Provided also, that nothing herein contained shall prevent such owners and rate-payers from re-electing the same persons or any or either of them to be guardians for the year next ensuing, nor from electing as a guardian any person who may already have been chosen as a guardian of any other parish. (*k*) Guardians may be re-elected.

XXXIX. And be it further enacted, That if the The like for single parishes.

(*k*) See *post.*, p. 106, note to section 40.

said commissioners shall, by any order under their hands and seal, direct that the administration of the laws for the relief of the poor of any single parish should be governed and administered by a board of guardians, then such board shall be elected and constituted, and authorized and entitled to act, for such single parish, in like manner in all respects as is herein-before enacted and provided in respect to a board of guardians for united parishes; and every justice of the peace resident therein, and acting for the county, riding, or division in which the same is situated, shall be and may act as an ex officio member of such board.

ELECTIVE FRANCHISE. (l)

At elections
of guardians
votes how

XL. And be it enacted, That in all cases of the election of guardians under this Act, or wherever

(l) The proportion of votes between the owners and rate-payers is as follows; a person rated under 50*l.* one vote: rated 60*l.* and upwards, one vote for every 25*l.*, till the votes amount to six; but no person to have more than that number. Such is scale, according to which, owners are to vote *now*, who before had no vote at all; and for the rate-payers, who before voted *exclusively*, this scale is superseded, and a different one provided above; according to which, *primâ facie*, the votes of owners *may be* six to one, or possibly only two to one; but in no imaginable instance, if the owners exercise their right, can the votes of the rate-payers be equal to them.

Where, it might be asked, in the annals of former legislation, is to be found a parallel to this provision?—nullifying at one stroke, the influence and votes of the householders and yeomanry of England. This is new in point of principle. It is not tory, it was not whig, till out of whiggism rose a quasi toryism. Suppose the commissioners, under the power given them by the 26th section, form a couple of unions of parishes, comprising all the parishes of the city of London. What householder would think it worth going to the vestry to vote for guardians, when he knows that the owner of his premises, or the owner's proxy, can give three or six votes to his one, either with or against him. What could be the object of such an arrangement, but to defeat a presumed antagonism—whether rightly or wrongly presumed I say not—on the side of

the consent of the owners of property or rate-payers in any parish or union shall be required for ^{to be taken, owners to vote.}

public opinion, by swamping the vestries with the multiplied votes of the few, from whom it is presumed there will be no opposition.

But it is said, there are other reasons, concurring with the above object as the grounds of this provision. The poor rate, it is said, is a charge on the *land*,—and houses and lands are under the same predicament with reference to this question. It makes the land of so much the less value to sell or let. What the tenant pays, or expects to pay, in rate, he saves in rent, for without the expectation of such a disbursement, he would give a higher rent. The rate therefore, in effect, is paid by his landlord. Then comes the practical consequence embodied in this provision. If the landlord pays the rate,—and it is assumed that he does,—he is entitled to have a paramount voice in the choice of those who are to manage its collection and distribution : and on this principle probably, the immediate rate-payers would not have been allowed to vote at all, but that it was convenient to mask the nullification of their power, by the semblance of its continuance and preservation.

Having stated this set of reasons, I will venture to question the justice of their present application. They are the pretence for giving paramount power to those who hitherto have had no power at all in this matter.

Paramount power, in point of practical effect, is the same thing as the exclusion of opponents. If the owners in a body, and the occupiers in a body, have a contention of interests, the former will in all cases be numerically triumphant, in the election of the persons to whom the matters involving those interests are to be intrusted. So far, therefore, as protection of the interests of the householders, rate-payers, or occupiers, is in view, their presence in the vestry is a nullity.

Now, Is their interest nothing? Is there a landlord in Parliament who regards the poor rate as a burden so entirely his own, that he would consent to a law, to transfer at the expiration of his lease from the tenant to himself the obligation of paying it? No such law was suggested in either House of Parliament. The commissioners suggested no such law. The owners there, would have found in their *interests* too many arguments against it. The fluctuations of the rate, or rather its gradual increase, at least form a risk, inconvenience, or burden, which, whilst the tenant pays the rate, falls on the tenant. The owners know also, that when land is to let, the eagerness of many to acquire it, leads to miscalculations, or affords the chance of miscalculations, of the burdens upon it ; which is, to landlords, an-

any of the purposes of this Act, except when otherwise expressly provided for in this Act, the votes of

other exemption, to the extent of the value of the advantage, and to the same extent a charge exclusively on tenants.

Extraordinary expences also sometimes arise, which in competition for shops or lands, shopkeepers and farmers are equally apt to overlook or undervalue. These, and there are others, are sources of burden which press on the householder and yeomanry class, as rate-payers, and the rate is not borne by the owners to the extent assumed in the abstract principle, which has given the latter a supreme and incontrollable dominion in vestries on poor law matters.

How also does the case stand with reference to the powers given by this Act to the local guardians and commissioners. These powers, though exercised by guardians, are, in effect, given to the owners, by whom the guardians are elected. There is the power of establishing workhouses. To economise relief, and effectuate the policy of this Act, the commissioners propose, for instance, to build a new, or enlarge an existing workhouse. The outlay for this purpose will be large; and being occasioned by a change of system, it is an unexpected item, of which no estimate was made at the commencement of the existing tenancies. But it is to be charged on the rates. Now the injustice of the above provision, with reference to such a state of things, is obvious. The owners are made predominant in the vestries. They are made so, because it is said, the occupiers are merely their paymasters. But here is an item,—and it is only one of many,—which not having been estimated in the rent will be paid out of the capital of the occupiers. More than ordinary disbursement is in question, this is a case of contending interests between owners and tenants. A permanent saving is to be effected. The saving is an annuity in fee simple; purchased at whose expence? this will rest with the vestry:—but look at the interests which are predominant in the vestry, and there can be no doubt as to the proper answer:—the vestry will accumulate as much of the charge as possible on the rates of to-day, because, deferred till the expiration of existing tenancies, it will be estimated in the new rent, and will be paid, not out of the capital of the occupiers, but in effect by the owners. Convert the rate, like the land-tax, into a direct charge on the owners, and this section will cease to be open, at least, to the above objections.

It will perhaps be said in reply, that the 24th and 25th sections provide an effectual obstacle to this injustice, by enacting that the principal sum raised for building, hiring, altering, or enlarging any workhouses, with the consent of the

such owners and rate-payers shall be given or taken in writing, collected, and returned, in such manner

guardians, *shall not exceed the average annual amount of the rates raised for the relief of the poor for three years preceding* (s. 24); and that where such works are performed under the order of the commissioners without the consent of the guardians, it shall not exceed in the whole the sum of 50*l.*, nor one-tenth of the annual average of the three years preceding (s. 25). Undoubtedly, this is a limit on the amount of the injustice; but still the injustice is there, and what on the face of the enactment may be the amount of it? At all events the rates (which still have to come out of the tenant's pocket, and that is the point of view in which I am contending against the enactment), *may be doubled*, for the limitation applies only to the purposes mentioned in the 23rd section,—that is, no more money shall be raised for the building, altering, or enlarging workhouses, than was raised for *relief* in the aggregate for the average of three years next preceding. But sums have also to be raised for *relief*, because building a workhouse alone does not *relieve* people: the rates, therefore, for these two purposes *may be doubled*. But further there is no limitation on the sums to be raised for any other purposes than those mentioned in the 23rd section, and besides those expences there are the expences of utensils, furniture, and a great many other things incident to the workhouse system, but not to the superseded system. The amount then stands thus, as to the item:

1. Relief to the poor, say, ten per cent. less,—the commissioners having effected that saving.
2. Building, altering, or enlarging the workhouse,—the same sum as was paid for the total expence of relief in every form on the average of three years preceding. Upon these two items, therefore, the rate is doubled, minus *ten per cent.* the saving on the first item.
3. The expence of utensils and every thing incident to the workhouse system. The objection then stands unanswered, that upon a theory false in fact, power is transferred from rate-payers to owners, that the consent of the latter may be obtained to a class of expences supposed to be paid by themselves, but which in fact will come as a confiscatory burden for the benefit of owners, at the expence of their present tenants. The objection can be obviated only by making the rates payable by the owner like the land-tax, and not by the tenant,—or by at least making them payable by him, to the extent of the extraordinary disbursements. There are also several other extraordinary expences,—expences for emigration, &c.—which may also be incurred at the pleasure of the guardians, or of those whom they represent, which are so many like additions to the ordinary rates, and though voted by the owners will be paid with the capital of the rate-payers.

58 G. 3. c.
69.Scale of
voting.Votes may
be by
proxy.

as the said commissioners shall direct; and in every such case the owner, as well as the rate-payer, in respect of any property in such parish or union, shall be entitled to vote, and the owner shall have the same number and proportion of votes respectively as is provided for inhabitants and other persons in and by an Act made and passed in the fifty-eighth year of the reign of his said late Majesty King George the Third, intituled *An Act for the Regulation of Parish Vestries*, and in and by an Act to amend the same, made and passed in the fifty-ninth year of his said late Majesty; and the rate-payers under two hundred pounds shall each have a single vote; and the rate-payers rated at two hundred pounds or more, but under four hundred pounds, shall each have two votes, and the rate-payers rated at four hundred pounds or more, shall each have three votes; and the majority of the votes of such owners and rate-payers which shall be actually collected and returned shall in every such case be binding on such parish; and for the purpose of ascertaining the number of votes to which each such owner shall be entitled, the aggregate amount of the assessment for the time being of any property belonging to such owner in such parish, or on any person or persons in respect of the same, to the poor rate, shall be deemed to be and taken as the annual value of such property to such owner; and where any such owner shall be the *bonâ fide* occupier of any such property, he shall be entitled to vote as well in respect of his occupation as of his being such owner: Provided always, that it shall be lawful for any owner from time to time, by writing under his hand, to appoint any person to vote as his proxy; and every such appointment shall remain in force until revoked or recalled by such owner; but no owner shall be entitled to vote, either in person or proxy, unless he shall, previous to the day on which he shall claim to vote, have given a statement in writing of his name and ad-

dress, and the description of the property in the parish as owner whereof, or proxy for the owner whereof, he claims to vote, and if such proxy, the original, or an attested copy of the writing appointing him such proxy, to the overseers of such parish; and the said overseers are hereby required to enter in the rate books of such parish, or in some other book to be from time to time provided for that purpose, the names and addresses of the owners and proxies who shall send such statements, and the assessment of the rate for the relief of the poor of the property in respect whereof they respectively claim to vote: Provided also, that every person who shall not vote, or who shall not comply with the directions to be made by the said commissioners for the giving, taking, or returning of votes, shall be omitted in the calculation of votes, and considered as having had no vote on the question whereon he might have voted: Provided also, that no person shall be deemed a rate-payer, or be entitled to vote or do any other act, matter, or thing as such, under the provisions of this Act, unless he shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such rate-payer, and shall have paid the parochial rates and assessments made and assessed upon him for the period of one whole year, as well as those due from him at the time of so voting or acting, except such as shall have been made or become due within six months immediately preceding such voting or acting: Provided always, that in cases of property belonging to any corporation aggregate, or to any joint stock or other company, no member of such corporation, or proprietor of or interested in such joint stock or other company, shall be entitled to vote as such owner in respect thereof; but any officer of such corporation, joint stock, or other company, whose name shall be entered by the direction of the governing body of such corporation or company in the books of the

Rate-payer
must be
rated one
year.

parish, in the manner herein-before directed with respect to the owner of property, shall be entitled to vote in respect of such property in the same manner as if he were the owner thereof.

ELECTIONS.

Elections of guardians, &c. under 22 G. 3, c. 83, and local Acts to be according to this Act.

XLI. And be it further enacted, That all elections of guardians, visitors, and other officers, for the execution of any of the powers or purposes of the said recited Act made and passed in the twenty-second year of the reign of his said late Majesty King George the Third, intituled *An Act for the better Relief and Employment of the Poor*, or of any local Act of Parliament relating to poorhouses, workhouses, or the relief of the poor, or any Act to alter or amend the same respectively, shall hereafter, so far as the said commissioners shall direct, be made and conducted according to the provisions of this Act: Provided always, that it shall be lawful for the said commissioners, if they shall so think fit, from time to time, with the consent of the majority of the owners of property and rate-payers of any parish, or of any union now existing or to be formed under the provisions of this Act, to alter the period for which the guardians to be appointed under the provisions of this Act for such parish or union, or any of them, would under the provisions of this Act hold office, for such other period or periods as to the said commissioners, with such consent as aforesaid, shall seem expedient, and also to make such alterations in the number, mode of appointment, removal, and period of service of the guardians, or any of them, of any parish, or of any union now existing or to be formed under the provisions of this Act, as to the said commissioners, with such consent as aforesaid, shall seem expedient (*m*).

(*m*) See *ante*, p. 86, note to section 29 (tit. 3).

WORKHOUSE RULES.

XLII. And be it further enacted (*n*), That the said commissioners may and are hereby authorized, by writing under their hands and seal, to make rules, orders, and regulations, to be observed and enforced at every workhouse already established by virtue of the said recited Act made and passed in the twenty-second year of the reign of his said late Majesty King George the Third, intituled *An Act for the* Commissioners may make rules, &c. for work-houses, and vary bye-laws.

(*n*) The form of this section will explain to those who wish to examine such a legal nicety, the difference between a power resting on the 15th section, referred to afterwards as given by that section, and a power given concurrently by a later section—as in the present—not containing the qualification of the 15th section.

The above section and the 15th, are in the same relation to one another on the subject of the government of workhouses and the other subjects specified in this section; as, with respect to contracts, are the 15th and 49th sections. But the above section, not merely mentions the powers by way of reference as powers already given, but gives them concurrently and without the restriction of the 15th section; for, as to the government of workhouses, and the nature and amount of the relief to be given to, and the labour to be exacted from the persons relieved, and the preservation therein of order, it makes the rules of the commissioners of the same effect, “as if they were embodied in this Act of Parliament;” so that seemingly, supposing any previous law on these particular subjects to be unrepealed, it would be liable to be annulled (*qu.*) by the orders of the commissioners, unless indeed it should be held, even as to these rules, that the proviso at the end of this 42nd section, whereby they are made subject and liable to all the provisions of this Act respecting general rules, impliedly alludes to (amongst other provisions) the qualification of the 15th section,—upon which, however, I do not venture to give an opinion.

This section applies to all workhouses, whether established now, or to be hereafter; and whether under Gilbert's Act, or any Local Act, or any General Act of Parliament; but it is a separate question, whether it extends to houses, such (if there are any others of the kind,) as the poor-houses for infants within the bills of mortality: and this question, it seems, depends on the reasoning already put under a former section. (See p. 66, note to section 15.)

better Relief and Employment of the Poor, or any general or local Act of Parliament, or hereafter to be established by virtue of such Acts, or of any of them, or of this or any other Act of Parliament relating to the relief of the poor, for the government thereof, and the nature and amount of the relief to be given to and the labour to be exacted from the persons relieved, and the preservation therein of good order, and from time to time to suspend, alter, vary, amend, or rescind the same, and make any new or other rules, orders, and regulations, to be observed and enforced as aforesaid, as they from time to time shall think fit, and to alter, at their discretion, any of the rules, orders, and regulations contained in the schedule to the said recited Act, and also to alter or rescind any rules, orders, and regulations heretofore made in pursuance of the said recited Act, or any local Act of Parliament relating to workhouses or the relief of the poor; and that all rules, orders, and regulations to be from time to time made by the said commissioners under the authority of this Act shall be valid and binding, and shall be obeyed and observed as if the same were specifically made by and embodied in this Act; subject, nevertheless, to the said power of the said commissioners from time to time to rescind, amend, suspend, or alter the same: Provided always, that if any such rule, order, or regulation shall be, at the time of issuing the same, directed to and affect more than one union, the same shall be considered as a general rule, and subject and liable to all the provisions in this Act contained respecting general rules (o).

VISITING POWERS.

Justices to
see bye-
laws en-

XLIII. And be it further enacted, That where any rules, orders, or regulations, or any bye-laws, shall

(o) Besides these powers of making rules, the Act itself contains certain regulations of police relating to workhouses, The

be made or directed by the said commissioners to be observed or enforced in any workhouse, it shall be forced, and to visit work-house.

19th section secures inmates against any infraction of the right of religious nonconformity, by providing that no order shall be of force to oblige any inmate to attend any religious service contrary to his religious principles, nor to authorize the education of any child in any creed disapproved by its parents. Inmates also, upon request, are entitled to have the visits of any licensed minister of any religious persuasion, for the purpose of receiving from him religious assistance. The 43rd section extends the visiting powers of justices under the statute 30 Geo. 3, c. 49, to enable them to see that the rules of the commissioners are complied with ; and if found not complied with through wilfulness, the 98th section attaches to such non-compliance, on the part of any person whatever, penalties, in the accumulative order of 5*l.* and 20*l.* recoverable before any two justices, and for the third offence, of 20*l.* and imprisonment, on conviction by indictment, as for a misdemeanor ; a penalty of 5*l.* is also attached to disobedience to any orders of any justice or guardian, given in furtherance of the rules of the commissioners. The 44th section provides, that the workhouse of any corporate place shall be under the jurisdiction of the corporate magistracy, though locally situated beyond the corporate boundaries. The 45th section provides against the making or enforcement of any rules under which any dangerous lunatic, insane person, or idiot, might be detained more than fourteen days in any workhouse ; —a provision which, it seems, on a principle already adverted to (see p. 10, p. 118., n.), is unnecessary ; lunatics, like infants within the bills of mortality, having been put under special legislative provisions, the general effect of which is, that the object of such provisions are no more affected by any new General Act, except as expressly mentioned in it, than places governed under Local Acts are affected, unless the Local Acts are annulled by necessary implication, or express provision. It may be regarded also as part of the police of this Act, that all officers locally intrusted with the care of the workhouses are removable by the commissioners. (s. 48.) Against an abuse of power by masters and other officers, protection is given by the 93rd section, which forbids the corporal punishments of any adult person ; the confinement of any one more than twenty-four hours, or such longer time as may be necessary to take him before a justice, and subjects offenders in these respects to the penalty of twenty pounds, and a committal to prison on default of payment. The complaint for these offences may be made by the poor person aggrieved as well as by the overseer, but the penalty is given by implication to the parish. Independently

and may be lawful for any justice of the peace acting in and for the county, place, or jurisdiction in which such workhouse shall be situate, to visit, inspect, and examine such workhouse at such times as he shall think proper, for the purpose of ascertaining whether such rules, orders, regulations, or bye-laws are or have been duly observed and obeyed in such workhouse, as well as for such other purposes as justices are now authorized to visit workhouses under and by virtue of a certain Act made and passed in the thirtieth year of the reign of his said late Majesty King George the Third, intituled *An Act to empower justices and other persons to visit parish workhouses or poorhouses, and examine and certify the state and condition of the poor therein to the quarter sessions*; and if in the opinion of such justice such rules, orders, regulations, or bye-laws, or any of them, have not been duly observed and obeyed in such workhouse, it shall be lawful for such justice to summon the party offending in such respect to appear before any two justices of the peace to answer any complaint touching the non-observance of such rules, orders, regulations, and bye-laws, or any of them, and upon conviction

of statutory provisions, it will behove those who have the charge of the poor, not to exceed the orders of the commissioners. An order, reasonable in itself, must not be enforced, either in an unreasonable manner, nor under circumstances which alter its character. The 55th section requires a register of the names and settlements of the inmates, and such further particulars as the commissioners shall order, to be kept in every workhouse. The 92nd and 93rd forbid the introduction of spirits into the workhouses by any person without the master's order (92nd); or by the master himself, except as may be allowed by the rules of the commissioners (93rd); and the 94th requires masters to hang up copies of the two preceding clauses in the workhouse. By the 91st section is repealed certain provisions, the object of which is better secured by the last-mentioned provisions. The various provisions relating to relief in workhouses and to the establishment of workhouses are elsewhere stated. (See *ante*, pp. 7, 25, et seq. 46.)

before such two justices of the party so offending such party shall forfeit and be liable to such penalties and punishments as are hereinafter prescribed and provided against parties wilfully neglecting or disobeying the rules, orders, or regulations of the said commissioners: Provided always, that where no such rules, orders, regulations, or bye-laws shall have been directed by the said commissioners to be enforced and observed in the workhouse of any parish, nothing in this Act contained shall be construed to restrain or prevent any justice of the peace, physician, surgeon, or apothecary, or the officiating clergyman of any parish, from visiting such workhouse, and examining and certifying the state and condition of the same and of the poor therein, in such manner as they or any of them are authorized to do in and by the said last-recited Act.

But not to visit where commissioners' rules, &c. are not in force.

JURISDICTION.

XLIV. Whereas the jurisdiction of certain cities, boroughs, and corporate towns is not always co-extensive with the parish in which it exists; be it therefore enacted, That every house or building which shall be erected, purchased, or hired as and for a workhouse, together with all premises and appurtenances thereto belonging, and the land or lands occupied therewith, shall be deemed and held to be within and subject to the local jurisdiction of such incorporated city, borough, or town, to which they may respectively belong, though the same may be situated in such part of the respective parishes as may not be within the chartered boundaries thereof.

Work-houses to be within jurisdiction of place to which they belong.

LUNATICS.

XLV. And be it further enacted, (*p*) That nothing in this Act contained shall authorize the detention in

Lunatics, &c. not to be detained in a work-house.

(*p*) See *ante*, p. 115, note (*n*).

(*q*) This provision seems to be unnecessary; lunatics, like infants within the bills of mortality, having been put under

any workhouse of any dangerous lunatic, insane person, or idiot, for any longer period than fourteen days; and every person wilfully detaining in any workhouse any such lunatic, insane person, or idiot, for more than fourteen days, shall be deemed guilty of a misdemeanor: Provided always, that nothing herein contained shall extend to any place duly licensed for the reception of lunatics and other insane persons, or to any workhouse being also a county lunatic asylum.

APPOINTMENT OF PAID OFFICERS.

Commis-
sioners may
direct ap-
pointment
of paid offi-
cers;

XLVI. And be it further enacted (*g*), That it shall be lawful for the said commissioners, as and when they shall see fit, by order under their hands and seal, to direct the overseers or guardians of any

special legislative provisions,—the general effect of which is, that the objects of such provisions are no more affected by any new General Act, except as expressly mentioned in it, than places governed under Local Acts are affected, unless the Local Acts are annulled by express provision. This is a principle of universal operation. The Act, commonly called the Beer Act, gives a right to sell beer under certain conditions, and is expressed in terms implying an equal operation in all places, yet wherever there is a local custom its operation is restricted by the local custom, the custom not being annulled without an express provision. (*The Mayor, &c. of Leicester v. Burgess*, 5 B. & Adol. 246. See also *ante*, pp. 7. 30, et seq.)

(*g*) By the 46th section, unions of another species are projected; *unions for appointing paid officers*. For this purpose, the commissioners may declare any number of parishes or unions to be united together, and may require the overseers or guardians to appoint—according to previous rights this appointment, where there are no guardians, ought to be made by the inhabitant rate-payers—officers with such qualifications, for the performance of such duties, in such places and limits as they may prescribe. The commissioners also may fix the salaries, and apportion the contributory shares of the expences; which shares, the paid officers according to their interests therein, may recover against the overseers or guardians of the different parts of the union, by the means provided in the like case for any other kind of paid officers.

parish or union, or of so many parishes or unions as the said commissioners may in such order specify and declare to be united for the purpose only of appointing and paying officers, to appoint such paid officers with such qualifications as the said commissioners shall think necessary for superintending or assisting in the administration of the relief and employment of the poor, and for the examining and auditing, allowing or disallowing of accounts in such parish or union, or united parishes, and otherwise carrying the provisions of this Act into execution: and the said commissioners may and they are hereby empowered to define and specify and direct the execution of the respective duties of such officers, and the places or limits within which the same shall be performed, and direct the mode of the appointment and determine the continuance in office or dismissal of such officers, and the amount and nature of the security to be given by such of the said officers as the said commissioners shall think ought to give security, and, when the said commissioners may see occasion, to regulate the amount of salaries payable to such officers respectively, and the time and mode of payment thereof, and the proportions in which such respective parishes or unions shall contribute to such payment; and such salaries shall be chargeable upon and payable out of the poor-rates of such parish or union, or respective parishes, in the manner and proportions fixed by the said commissioners, and shall be recoverable against the overseers or guardians of such parish or union, or parishes, by all such ways and means as the salaries of assistant overseers or other paid officers of any parish or union are recoverable by law: and all such payments shall be valid, and shall be allowed in the accounts of the overseers or guardians paying the same.

and fix their
duties, sa-
laries, mod-
of appointe-
ment and
dismissal.

OVERSEERS' ACCOUNTS.

Overseers,
&c. to pass
accounts
quarterly.

Recovery
of balances.

XLVII. And be it further enacted, That every overseer, treasurer, or other person having the collection, receipt, or distribution of the monies assessed for the relief of the poor in any parish or union, or holding, or accountable for any balance or sum of money, or any books, deeds, papers, goods, or chattels relating to the relief of the poor, or the collection or distribution of the poor-rate of any parish or union, shall once in every quarter, in addition to the annual account now by law required, and where the rules, orders, and regulations of the said commissioners shall have come in force, then as often as the said rules, orders, and regulations shall direct, but not less than once in every quarter, make and render to the guardians, auditors, or such other persons as by virtue of any statute or custom, or of the said rules, orders, or regulations, may be appointed to examine, audit, allow, or disallow such accounts, or in default of any such guardian, auditor, or other person being so appointed as aforesaid, then to the justices of the peace at their petty sessions for the division in which such parish or union shall be situate, a full and distinct account in writing of all monies, matters, and things committed to their charge, or received, held, or expended by them on behalf of any such parish or union, and if thereunto required by the justices, guardians, auditors, or other persons authorized in that behalf, shall verify on oath the truth of all such accounts and statements from time to time respectively, or subscribe a declaration to the truth thereof, in manner and under the penalties in this Act provided for parties giving false evidence or refusing to give evidence under the provisions of this Act: and all balances due from any guardian, treasurer, overseer or assistant overseer, or other person having the control and distribution of the poor-rate, or accountable for such balances, may be recovered in the same man-

ner as any penalties and forfeitures are recoverable under this Act : (r) Provided nevertheless, that no such proceeding shall exonerate or discharge the liability of the surety of any such treasurer, overseer, assistant overseer, or other person as aforesaid. Surety not discharged.

OFFICERS REMOVABLE.

XLVIII. And be it further enacted, That the said commissioners may and they are hereby authorized and empowered, as and when they shall think proper, by order under their hands and seal, either upon or without any suggestion or complaint in that behalf from the overseers or guardians of any parish or union, to remove any master of any workhouse, or assistant overseer, or other paid officer of any parish or union whom they shall deem unfit for or incompetent to discharge the duties of any such office, or who shall at any time refuse or wilfully neglect to obey and carry into effect any of the rules, orders, regulations, or bye-laws of the said commissioners, whether such union shall have been made or such officer appointed before or after the passing of this Act, and to require from time to time the persons competent in that behalf to appoint a fit and proper person in his room ; and that any person so removed shall not be competent to be appointed to or to fill any paid office connected with the relief of the poor in any such parish or union, except with the consent of the said commissioners under their hands and seal : Provided always, that no person shall be eligible to hold any parish office, or have the management of the poor in any way whatever, who shall have been convicted of felony, fraud, or perjury. (s) Masters of work-houses, &c. to be under order of, and removable by, board.

(r) See *post.*, sections 49, 50, 55, 77, 89, and 2 Nolan, 441.

(s) This invidious, ill-tempered, cynical proviso ;—which was not in the bill as it passed the commons, nor till it had nearly gone through the Lords ; which is both so unimportant in a general point of view, and so misplaced as to awaken suspi-

CONTRACTS.

Contracts
not valid
unless con-

XLIX. And be it further enacted, (*t*) That any contract which shall be entered into by or on be

cion of its having been inserted unobserved to answer some invisible purpose of private malice ;—which says, crime shall be indelible ; which makes fresh the stains washed off by years of unimpeachable respectability, and inflicts a second punishment for offences remembered only in the gossip of the parish slanderer ; which tips with new venom every tongue that delights in blasting a retrieved character. What is the scope of this mischievous proviso ? Who is its *ecce homo* ? does it apply to elected guardians, as well as paid officers ? I have a case to answer involving this question, and fully showing how hardly, in individual cases, it may operate.

(*t*) The subject of contracts is one on which the commissioners are specifically empowered in the 15th section to make rules and orders. It is on that section that the power rests, and not on the above section, which manifestly implies it to have been already given. This distinction might in some cases,—though perhaps it is not in the present,—be of importance ; for the 15th section contains a restrictive qualification (see *ante*, p. 64, note to section 15) not repeated in the above section.

On whichever section, however, the power depends, it clearly applies only to contracts made after the orders respecting contracts have come into operation. It therefore does not apply to contracts made in the interval, at least, of forty days after the appointment of the commissioners that must, and of two or three months that probably will, elapse, before there can be any rules on this subject. The commissioners, however, themselves seem to have adopted a different construction ; for, assuming evidently that their rules would have a retrospective effect, they have addressed a letter (see *The Times*, August 27th,) to guardians and parish officers, admonishing them, (amongst other things,) “ *for the avoidance of pecuniary loss,*” to insert in all contracts entered into *before the rules are issued*, a clause to the following effect, viz. “ That the said contract or agreement shall be liable to be altered or amended, in case any alteration or amendment be rendered necessary by any rule or regulation of the poor law commissioners of England and Wales, during the period that such contract or agreement would otherwise remain in force.” Upon which it may be remarked, that if the contract is not such an unreasonable one in point of duration, as to raise the presump-

of half any parish or union, for or relating to the maintenance, clothing, lodging, employment, or relief of the poor, or for any other purpose relating to or connected with the general management of the poor, which shall not be made and entered into in conformity with the rules, orders, or regulations of the said commissioners in that behalf in force at the time of making and entering into the same or otherwise sanctioned by them, shall be voidable, and, if the said commissioners shall so direct, shall be null and void : and all payments made under or in pursuance of any contract not made and entered into in conformity with such rules, orders or regulations, at any period after the said commissioners shall have declared the same to be null and void as aforesaid, shall be disallowed in passing the accounts of the overseer, guardian, or other officer by whom such payments shall have been made.

tion of its having been made to evade the power of the commissioners, no alteration or amendment in it, *for the avoidance of pecuniary loss*, can be rendered necessary by any subsequent rule or order, for it will not be within the jurisdiction of the commissioners. And I will not let this opportunity pass of remarking, that the assumption to the contrary, bearing as it does upon large interests and large numbers of persons, shows how desirable it may become, that instead of the extreme difficulty which exists, there should be considerable facility of bringing the orders and acts of these gentlemen, not indeed in the odious form of an action, nor merely in the inadequate mode of a *certiorari*, but at least by motion, before a court of justice ; to the commissioners on the other hand might be conceded, in lieu of some of their powers, the privilege of calling in their aid a court of justice in some special manner. Yet, even the right of a *certiorari*, proposed by Sir James Scarlett, was resisted ; attesting, by one fact more, that even when the constitution is liberal, a love of arbitrary and despotic power is the soul of the executive departments ; from which a free legislature should learn, that one of its first duties is, to uphold the common law of the land, and to extend the jurisdiction of those courts to secure independence to which so much care has been taken.

Repeal of
45 G. 3, c.
54, as to
contracts.

L. And be it further enacted, That from and after the passing of this Act, a certain Act made and

(v) The principal provision of this repealed Act is, that no contract entered into by churchwardens and overseers of any parish for the lodging, keeping, maintaining, or employing of the poor shall be valid, unless made with a parishioner, and its other provisions are merely ancillary. The effect of that act was to restrict in the manner stated the powers given to churchwardens and overseers by the 9th Geo. 1, c. 7, s. 4, without such restrictions. Its present repeal revives those powers in their integrity, except so far as they are qualified by other sections of this Act, especially by the 51st section, and by the powers of the commissioners (see ss. 15, 49). The 51st section is a provision extending to persons appointed under this Act, the clause of the 55th Geo. 3, c. 137, s. 6, prohibiting persons concerned in the administration of relief from having any interest in poor-law contracts.

The act repealed did not apply to incorporated places and parishes; it also only applied to the particular class of contracts called, I believe, contracts for farming out the poor—though in consequence, probably, of a mistake of its effect—the practice, it seems, even in the other classes of contracts, was according to it. “When I came into office,” says Mr. Richmond, who is described in the report of the commissioners (see Report, p. 330) as one of the guardians of the poor in St. Luke’s parish, “it was a recognized principle, that the purchase of commodities for parochial consumption should be confined to the tradesmen of the parish. The effects of the patronage incident to the purchase of goods to the amount of upwards of 20,000*l.* per annum from shopkeepers within the parish, patronage exercised by a board who are themselves shopkeepers or connected with shopkeepers, may well be conceived. For several years I have contended, but unsuccessfully, for the universal application of the principle, that contracts should be taken from those who made the lowest tenders, wherever they resided, provided they gave the requisite securities for the due performance of the contract. On investigating the purchases of goods within the parish, I found that some of the charges were upwards of forty per cent. above the market prices. Whatever opposition may be made against an extensive or efficient reform, or generalization of the management of the funds for the relief of the poor, will be based on the retention of the parochial patronage and power, although such a motive will never be ostensibly avowed. I have no doubt they will even assume that extended management will be more profuse than their own.”

Perhaps St. Luke’s Act contained a provision similar to

passed in the forty-fifth year of the reign of his said late Majesty King George the Third, intituled *An Act to amend an Act made in the Ninth year of King George the First, for amending the laws relating to the settlement, employment, and relief of the poor, so far as the same respects contracts to be entered into for the maintenance and employment of the poor*, shall be and the same is hereby repealed: Provided always, that nothing in this Act contained shall extend or be construed to extend to affect or make void any bond or other security which shall have been entered into or given before the passing of this Act, under or in pursuance of the provisions of the said Act hereby repealed.

LI. And be it further enacted, That so much of a certain Act made and passed in the fifty-fifth year of the reign of his said late Majesty King George the Third, intituled *An Act to prevent poor persons in workhouses from embezzling certain property provided for their use; to alter and amend so much of an Act of the thirty-sixth year of his present*

Persons appointed under this Act liable to penalty imposed by 55 G. 3, c. 137.

that now repealed; for in the next piece of evidence a select vestry is held forth as a cure for parish jobbing: "Before we had a select vestry it was not unusual for our overseers to be quite willing to take the office, and even to continue in it for more than one year; and it was well understood that this was because they had the means of spending money on behalf of the parish with their neighbours, or with whom they pleased. Since the establishment of the select vestry, however, we purchase every thing by open contracts, and the consequence has been, that our rates are 25 per cent. at least below what they were prior to the formation of the select vestry. Our tradesmen now cry out against being exclusively called upon to serve as overseers, and they have said, that they will insist upon having the gentry included with themselves." Upon which the commissioners recommend, what? Not the above repeal of the Act, the root and cause of the practice so justly reprobated, but "That the central board be empowered to direct the parochial consumption to be supplied by tender and contract, and to provide that the competition be perfectly free."

Majesty as restrains justices of the peace from ordering relief to poor persons in certain cases for a longer period than one month at a time; and for other purposes therein mentioned, relating to the poor, as inflicts a penalty on persons having the management of the poor if concerned in providing or in any contract for the supply of any goods, materials, or provisions for the use of any workhouse or workhouses, or otherwise for the support or maintenance of the poor for their own profit, and all remedies for the recovery of such penalties, shall apply and the same are hereby extended and made applicable to every commissioner, assistant commissioner, guardian, treasurer, master of a workhouse, or other officer to be appointed under the provisions of this Act. (w)

RELIEF.

Commis-
sioners to
regulate re-
lief to able-
bodied and
their fami-
lies.

LII. And whereas a practice has obtained of giving relief to persons or their families who, at the time of applying for or receiving such relief, were wholly or partially in the employment of individuals, and the relief of the able-bodied and their families is in many places administered in modes productive of evil in other respects: and whereas difficulty may arise in case any immediate and universal remedy is attempted to be applied in the matters aforesaid: be it further enacted, (x) That from and after the passing of this Act it shall be lawful for the said commissioners, by such rules, orders, or regulations as they may think fit, to declare to what extent and for what period the relief to be given to able-bodied persons or to their families in any particular parish or union may be administered out of the workhouse of such parish or union, by payments in money, or with food or clothing in kind, or partly in kind and partly in money, and in what proportions, to what persons or class of persons, at what

(w) See *ante*, p. 122 n. (x) *Ante*, pp. 7, 20, 31.

times and places, on what conditions, and in what manner such out-door relief may be afforded: and all relief which shall be given by any overseer, guardian, or other person having the control or distribution of the funds of such parish or union, contrary to such orders or regulations, shall be and the same is hereby declared to be unlawful, and shall be disallowed in the accounts of the person giving the same, subject to the exceptions herein-after mentioned: Provided always, that in case the overseers or guardians of any parish or union to which such orders or regulations shall be addressed or directed shall, upon consideration of the special circumstances of such parish or union, or of any person or class of persons therein, be of opinion that the application and enforcing of such orders or regulations, or of any part thereof, at the time or in the manner prescribed by the said commissioners, would be inexpedient, it shall be lawful for such overseers or guardians to delay the operation of such orders or regulations, or of any part thereof, for any period not exceeding the space of thirty days, to be reckoned from the day of the receipt of such orders or regulations: and such overseers or guardians shall, twenty days at the least before the expiration of such thirty days, make a statement and report of such special circumstances to the said commissioners; and all relief which shall be given by such overseers or guardians, before an answer to such report shall have been returned by the said commissioners, if otherwise lawful, shall not be deemed unlawful although the same shall have been given contrary to such orders or regulations, or any of them; but in case the said commissioners shall disapprove of such delay, or think that for the future such orders or regulations ought to come into operation, notwithstanding the special circumstances alleged by such overseer or guardian, it shall be lawful for the said commissioners, by a peremptory order, to direct that from and after a day to be fixed thereby such

Relief contrary to orders to be disallowed.

Overseers may delay operation of orders under special circumstances.

Commissioners disapproving delay, may fix a day from which such relief shall be disallowed.

orders and regulations, or such parts or modifications thereof as they may think expedient and proper, shall be enforced and observed by such overseers and guardians; and if any allowance be made or relief given by such overseers or guardians after the said last-mentioned period, contrary to any such last-mentioned order, the amount of the relief or allowance so given shall be disallowed in the accounts of the party giving the same: Provided also, that a quarterly report of all such cases as shall occur in any quarter shall, at the end of every such quarter, be laid by the said commissioners before one of his Majesty's principal secretaries of state: Provided also, that in case the overseers or guardians of any parish or union in which such orders or regulations shall be in force shall depart from them or any of them in any particular instance or instances of emergency, and shall within fifteen days after every such departure report the same and the grounds thereof to the said commissioners, and the said commissioners shall approve of such departure, or if the relief so given shall have been given in food, temporary lodging, or medicine, and shall have been so reported as aforesaid, then and in either of such cases the relief granted by such overseers or guardians, if otherwise lawful, shall not be unlawful or subject to be disallowed.

Cases of
emergency.

Repeal of
36 G. 3, c.
23, 55 G. 3,
c. 137, s. 3
& 4, and 59
G. 3, c. 12,
s. 2 & 5.

LIII. And be it further enacted, (*y*) That an Act passed in the thirty-sixth year of the reign of his late majesty King *George* the third, intituled *An*

(*y*) By the 9th Geo. 1, c. 7, s. 4, it was enacted, That poor persons refusing to be lodged, kept, or maintained in the parish house, should not be entitled to receive relief from the churchwardens and overseers of the same parish.

By the 36th Geo. 3., c. 23, this enactment was virtually repealed, by empowering churchwardens and overseers in special, but ill-defined cases, to give relief, although the applicant should refuse to be lodged, kept, and maintained, in the parish house, and by the still larger power which it gives to any justice or justices, of ordering relief to the poor at their own

Act to amend so much of an Act made in the ninth year of the reign of King George the first, intituled 'An Act for amending the Laws relating to the Settlement, Employment, and Relief of the Poor,' as prevents the distributing occasional Relief to poor Persons in their own Houses, under certain circumstances and in certain cases; and so much of an Act made and passed in the fifty-fifth year of the reign of his late majesty King George the third, intituled An Act to prevent poor Persons in Work-houses from embezzling certain Property provided

homes, although the parish has provided a house to lodge, keep, and maintain them. (s. 2.)

The third section of the same Act, requires the justice or justices in the exercise of this power, to assign in the order the special cause, and limits the period for which the order might be made, to one month from the date thereof.

By the statute 55th Geo. 3, c. 137, this period, for which the justices might make their order, was enlarged from one month to three months, with the power of making orders for six months, as they should be required, after the expiration of the three months' order, (ss. 3, 4)—with this limitation, however, in point of amount, that beyond the month the order should not be for more than three shillings a-week, or three-fourths of the weekly average expence of a person's maintenance in the workhouse.

The 59th Geo. 3, c. 12, s. 5, confines this power,—except in cases of emergency, and urgent distress,—which had been given to any justice or justices, to two or more justices: it requires the character and conduct of the applicant to be taken into consideration; it limits the order to the original period of one month, and requires the special cause of granting relief to be stated. (s. 5.) And by another section, (s. 2.) precisely the same powers are given to order relief in parishes with either guardians or select vestries.

Comparing these several provisions with one another, it appears that the whole effect of this 53rd section—as to places that have no select vestries or guardians—is to revive the 9th Geo. 1, c. 7, s. 4, and to re-establish the powers of justices and overseers as they were at that period, except so far as these powers may be qualified by any other provisions in this present Act;—and as to places that have guardians, &c., to revive the exclusive powers given to them by their Acts of incorporation. (See *ante*, pp. 7, 20, 25, 31, 37.)

*for their use, to alter and amend so much of an Act of the thirty-sixth year of his present majesty as restrains justices of the peace from ordering relief to poor persons in certain cases for a longer period than one month at a time, and for other purposes therein mentioned relating to the poor, as extends the period for which occasional relief may be ordered by any justice or justices to poor persons at their own homes; and so much of the said Act made and passed in the fifty-ninth year of the reign of his late majesty King George the third, intituled *An Act to amend the laws for the Relief of the Poor*, as empowers any justice or justices to order relief in certain cases for a limited time, or in cases of urgent necessity, or in cases where parishes are under the management of guardians, governors, or directors appointed by special or local Acts, or in cases where parishes have not a select vestry, shall be and the same are hereby repealed.*

No relief to be given except by board of guardians, &c.

1 & 2 W. 4.
c. 80.

LIV. And be it further enacted, That from and after the passing of this Act the ordering, giving, and directing of all relief to the poor of any parish which, according to the provisions of any of the said recited Acts, or of an Act passed in the first and second years of the reign of his present Majesty, intituled *An Act for the better regulating of Vestries, and for the Appointment of Auditors of Accounts in certain Parishes in England and Wales*, or of this Act, or of any local Acts, shall be under the government and control of any guardians of the poor, or of any select vestry, and whether forming part of any union or incorporation or not, (but subject in all cases to, and saving and excepting the powers of, the said commissioners appointed under this Act,) shall appertain and belong exclusively to such guardians of the poor or select vestry, according to the respective provisions of the Acts under which such guardians or select vestry may have been or shall be appointed; and it shall not be law-

ful for any overseer of the poor to give any further or other relief or allowance from the poor rate than such as shall be ordered by such guardians or select vestry, except in cases of sudden and urgent necessity, in which cases he is hereby required to give such temporary relief as each case shall require, in articles of absolute necessity, but not in money, and whether the applicant for relief be settled in the parish where he shall apply for relief or not : Provided always, that in case such overseer shall neglect or refuse to give such necessary relief in any such case of necessity to poor persons not settled nor usually residing in the parish to which such overseer belongs, it shall and may be lawful for any justice of the peace to order the said overseer, by writing under his hand and seal, to give such temporary relief in articles of absolute necessity, as the case shall require, but not in money ; and in case such overseer shall disobey such order, he shall, on conviction before two justices, forfeit any sum not exceeding five pounds which such justices shall order : Provided always, that any justice of the peace shall be empowered to give a similar order for medical relief (only) to any parishioner, as well as out-parishioner, where any case of sudden and dangerous illness may require it ; and any overseer shall be liable to the same penalties as aforesaid for disobeying such order ; but it shall not be lawful for any justice or justices to order relief to any person or persons from the poor rates of any such parish, except as herein-before provided.

Any justice may order medical relief in dangerous illness.

REGISTRATION.

LV. And be it enacted, That from and after the passing of this Act the master of every workhouse, or such other paid officer of the parish or union as the said commissioners may direct, shall, on such day and in such form as the said commissioners shall appoint, take an account of, and register in a

Masters of work-houses and overseers to keep registers.

book to be provided at the expence of the parish or union to which such workhouse shall belong, and to be kept specially for that purpose, the name of every poor person who shall on such days be in the receipt of relief at or in such workhouse, together with such particulars respecting the families and settlement of every such poor person, and his and their relief and employment, as the said commissioners shall think fit; and in like manner, on such day as the said commissioners shall appoint, the overseer of the poor of every such parish shall register in a book, to be provided and kept as aforesaid, the name of every poor person then in the receipt of relief in such parish out of the workhouse, together with such particulars respecting the family and settlement of every such poor person, and his and their relief and employments, as the said commissioners shall think fit; and after such account shall have been so taken and registered as aforesaid a similar register and account shall be kept by the like persons respectively of all persons who shall receive relief at or in or out of a workhouse, when and as often as such relief shall be granted. (a)

RELIEF.

Poor liable
for relief to
wife or chil-
dren.

LVI. And be it further enacted, That from and after the passing of this Act all relief given to or on account of the wife, or to or on account of any child or children under the age of sixteen, not being blind or deaf and dumb, shall be considered as given to the husband of such wife, or to the father of such child or children, as the case may be, and any relief given to or on account of any child or children under the age of sixteen of any widow, shall be considered as given to such widow: Provided always, that nothing herein contained shall discharge the father and grandfather, mother and grand-

(a) See note to section 43.

mother, of any poor child, from their liability to relieve and maintain such poor child in pursuance of the provisions of a certain Act of Parliament passed in the forty-third year of the reign of her late Majesty Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*. 43 Eliz. c.2.

LVII. And be it further enacted, That every man who from and after the passing of this Act shall marry a woman having a child or children at the time of such marriage, whether such child or children be legitimate or illegitimate, shall be liable to maintain such child or children as a part of his family, and shall be chargeable with all relief, or the cost price thereof, granted to or on account of such child or children until such child or children shall respectively attain the age of sixteen, or until the death of the mother of such child or children; and such child or children shall, for the purposes of this Act, be deemed a part of such husband's family accordingly. Husband liable to maintain children of wife born before marriage.

RELIEF BY LOAN.

LVIII. And be it further enacted, That from and after the passing of this Act any relief, or the cost price thereof, which shall be given to or on account of any poor person above the age of twenty-one, or to his wife, or any part of his family under the age of sixteen, and which the said commissioners shall by any rule, order, or regulation declare or direct to be given or considered as given by way of loan, and whether any receipt for such relief, or engagement to repay the same, or the cost price thereof, or any part thereof, shall have been given or not by the person to or on account of whom the same shall have been so given, shall be considered and the same is hereby declared to be a loan to such poor person. Relief to be considered as loan if commissioners so direct.

ATTACHMENT OF WAGES.

Justices to
attach
wages.

LIX. And be it further enacted, That in all cases where any relief shall have been given by way of loan, or where any relief, or the cost price thereof, shall be treated as a loan, under the rules, orders, and regulations of the said commissioners, or the provisions of this Act, it shall be lawful for any justice, upon the application of the overseers or guardians of the parish or union providing such relief, and upon proof of the same having been given to or on account of any such person, his wife or family as aforesaid, and of the same, or any part thereof, still remaining due, to issue a summons, requiring such person, as well as the master or employer of such person, or some person on his behalf, to appear before any two justices, at a time and place to be named in such summons, to show cause why any wages due, or which may from time to time become due, from such master or employer, should not be paid over, in whole or in part, to such overseers or guardians, and if no sufficient cause be shown to the contrary, or if such person, or some one on his behalf, shall not appear on the return of such summons, then the said justices shall, by order under their hands, direct the master or employer for the time being from whom any wages shall be due or from time to time become due or payable to such poor person, to pay, either in one sum or by such weekly or other instalments as the said justices shall in their discretion think fit, taking into consideration the circumstances of such poor person and his family, out of such wages, to such overseers or guardians, the amount of such relief, or so much thereof as shall from time to time be due or unpaid; and the payment to and receipt of any such overseer or guardian shall be a good discharge to such master or employer for so much of any such

wages as shall be so paid by virtue of any such order; and if any such master or employer shall refuse or neglect to pay to the overseer or guardian producing any such order the money thereby directed to be paid, according to the terms of such order, and at the periods thereby fixed for such payment, the same may be levied and recovered, and the payment thereof from time to time enforced against such master or employer, in such and the like manner as penalties and forfeitures are recoverable under this Act.

Mode of proceeding for recovery thereof.

RELIEF—MILITIA-MEN.

LX. And be it further enacted, That from and after the passing of this Act so much of an Act passed in the forty-third year of the reign of his said late Majesty King *George* the Third, intituled *An Act for consolidating and amending the several laws for providing relief for the families of Militiamen in England when called out into actual service*, as directs overseers of the poor, by order of some one justice of the peace, to pay to the family of any person serving or enrolled as a ballotted man, substitute, hired man, or volunteer in the militia of *England*, a weekly allowance, or as authorizes any justice or justices to order such allowance to be paid under the rules and conditions in the said recited Act provided, or as any way discharges such ballotted man, substitute, hired man, or volunteer from the liability to maintain or repay the costs of maintenance of his family or any part thereof, or as prevents such families or any part thereof from being removable to their place of legal settlement, or sent to any workhouse, by reason of their receiving any allowance or being chargeable, shall be and the same is hereby repealed.

Repeal of part of 43 G. 3. 47. relating to relief to wives, &c. of volunteers, &c.

APPRENTICESHIPS.

LXI. And be it further enacted, That from and

Justices to

certify that rules have been complied with in binding poor apprentices.

Justices' power as between master and apprentice.

after the period at which any rule, order, or regulation of the said commissioners shall come into operation for the binding of poor children apprentices, in addition to such assent or consent, order or allowance of justices, as are now required by law, such justices or any one justice are and is hereby authorized and required to examine and ascertain whether the rules, orders, or regulations of the said commissioners then in force for the binding of poor children apprentices have been complied with, and to certify the same at the foot of every such contract or indenture, and of the counterpart thereof, in such form and manner as the said commissioners by such rules, orders, or regulations may direct, and until so certified no such contract or indenture of apprenticeship shall be valid: Provided nevertheless, that nothing in this Act, or in any rule, order, or regulation of the said commissioners, shall affect the jurisdiction of any justices of the peace over any master or apprentice during the period of apprenticeship.

EMIGRATION.

Power to owners and rate-payers to raise money for purposes of emigration.

LXII. And be it further enacted, That it shall and may be lawful for the rate-payers in any parish and such of the owners of property therein as shall, in manner herein-before mentioned, have required their names to be entered in the rate books of such parishes respectively as entitled to vote as owners, assembled at a meeting to be duly convened and held for the purpose, after public notice of the time and place of holding such meeting, and the purpose for which the same is intended to be held, shall have been given in like manner as notices of vestry meetings are published and given, to direct that such sum or sums of money, not exceeding half the average yearly rate for the three preceding years,

(a) See *ante*, note to section 15.

as the said owners and rate-payers so assembled at such meeting may think proper, shall be raised or borrowed as a fund, or in aid of any fund or contribution for defraying the expences of the emigration of poor persons having settlements in such parish, and willing to emigrate, to be paid out of or charged upon the rates raised or to be raised for the relief of the poor in such parish, and to be applied and according to such rules, orders, and regulations as the said commissioners shall in that behalf direct: Provided always, that no such direction for raising money for such purpose as aforesaid shall have any force or effect unless and until confirmed by the said commissioners, and that the time to be limited for the repayment of any sum so charged on such rates as aforesaid shall in no case exceed the period of five years from the time of borrowing the same: Provided also, that all sums of money so raised as last herein-before mentioned, and advanced by way of loan, for the purposes of emigration, or such proportion thereof as the said commissioners shall by any rule, order, or regulation from time to time direct, shall be recoverable against any such person, being above the age of twenty-one years, who or whose family, or any part thereof, having consented to emigrate, shall refuse to emigrate after such expences shall have been so incurred, or having emigrated shall return, in such and the like manner as herein-before provided with respect to relief, or the cost price of relief, given or considered to be given by way of loan to any person, his wife or family.

EMIGRATION LOANS.

LXIII. And be it further enacted, (b) That where it shall be lawful, under the provisions of any of the herein-recited Acts, or of any local Act, or of this

Overseers
may bor-
row of com-
missioners

(b) See *ante*, note to section 40.

of exche-
quer bills
under Act
57 G. 3.
c. 34.

Act, to raise or borrow any sum or sums of money for the purpose of purchasing, building, altering, or enlarging any workhouse or workhouses in any parish or union, or for purchasing land whereon to build the same, or for defraying the expences of the emigration of poor persons having settlements in any parish, and being willing to emigrate, it shall be lawful for the overseers or guardians of such parish or union, with the consent of the said commissioners, to be testified under their hands and seal, to make application for an advance of any sum necessary for any such purposes to the commissioners appointed under an Act made and passed in the fifty-seventh year of the reign of his late Majesty King *George* the Third, intituled *An Act to authorize the issue of Exchequer bills, and the advance of money out of the consolidated fund, to a limited amount, for the carrying on of public works and fisheries in the United Kingdom, and employment of the poor in Great Britain, in manner therein mentioned*, and of any Act or Acts passed for amending or continuing the same; and the said exchequer bill loan commissioners are hereby empowered to make such advances, upon any such application as aforesaid, upon the security of the rates for the relief of the poor in such parish or union, and without requiring any further or other security than a charge on such rates.

SETTLEMENT. (c)

Repeal of
settlement
by hiring
and service.

LXIV. And be it further enacted, That from and after the passing of this Act no settlement shall be acquired by hiring and service, or by residence under the same, or by serving an office.

Inchoate
settlements
by hiring

LXV. And be it further enacted, That no person under any contract of hiring and service not com-

(c) See *ante*, p. 1, *et seq.*

pleted at the time of the passing of this Act shall acquire, or be deemed or adjudged to have acquired, any settlement by reason of such hiring or service, or of any residence under the same. and service not to be completed.

LXVI. And be it further enacted, That from and after the passing of this Act no settlement shall be acquired or completed by occupying a tenement, unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same, in respect of such tenement, for one year. No settlement by occupying tenement without paying poor rate.

LXVII. And be it further enacted, That from and after the passing of this Act no settlement shall be acquired by being apprenticed in the sea service, or to a householder exercising the trade of the seas as a fisherman or otherwise, nor by any person now being such an apprentice in respect of such apprenticeship. No settlement by apprenticeship in sea service.

LXVIII. And be it further enacted, (*d*) That no person shall be deemed, adjudged, or taken to re- Nor by estate longer than person

(*d*) Perhaps it may not be unacceptable to anticipate some questions that are sure to arise under this enactment. 1. If a settlement by estate is lost by reason of the pauper's removal to a greater distance than ten miles, will it be regained by returning to reside within that distance? The proper answer seems to be, that if the pauper retains the *estate*, he seemingly regains his settlement under it, by coming to reside on it, or in the same parish for forty days, but not by merely coming within ten miles of it; for having once lost this settlement, he can regain it only as a new settlement, and its renewal can take place only on the same conditions as if he had never before had it. 2. A settlement may be acquired by more titles than one, though not in more places than one. If then a person entitled to a settlement both by estate and by hiring and service, loses the title to it, by estate, in consequence of a residence beyond the specified distance, will he in virtue of the title of hiring and service (and not having since acquired a new settlement) retain the same settlement? Seemingly in such a case he will retain the same settlement.

But supposing he had not the title by hiring and service to

inhabits
within 10
miles there-
of,

tain any settlement, gained by virtue of any possession of any estate or interest in any parish, for any longer or further time than such person shall inhabit within ten miles thereof; and in case such person shall cease to inhabit within such distance, and thereafter become chargeable, such person shall be liable to be removed to the parish wherein previously to such inhabitancy he may have been legally settled, or in case he may have subsequently to such inhabitancy gained a legal settlement in some other parish, then to such other parish.

BASTARDY.

Repeal of
Acts relat-
ing to liabi-
lity, and
punish-
ment of pu-
tative fa-
ther, and
punish-
ment of
mother of
illegitimate
children.

LXIX. And be it further enacted, That from any after the passing of this Act so much of any Act or Acts of Parliament as enables any single woman to charge any person with having gotten her with any child of which she shall then be pregnant, or as renders any person so charged liable to be apprehended or committed, or required to give security on any such charge, or as enables the mother of any bastard child or children to charge or affiliate any such child or children on any person as the reputed or putative father thereof, or as enables any overseer or guardian to charge or make complaint against any person as such reputed or putative fa-

support the settlement on failure of the title by estate, what settlement would he take? Seemingly, a birth-settlement.

But would he take a birth-settlement in such case, supposing his birth-settlement to have been lost by an intermediate settlement between the birth-settlement and estate-settlement? This case is expressly provided for: "he shall be liable to be removed to the parish wherein, previously to such inhabitancy, he may have been legally settled;" and then, what is meant by the alteration which follows immediately, namely, "or in case he may have subsequently to such inhabitancy gained a legal settlement in some other parish, then to such other parish?" Does it mean any thing more than that a person losing the one settlement shall take his last previous settlement? Such seems to be the meaning as far as it can be seen, through such vexatious confusion of ideas.

ther, and to require him to be charged with or contribute to the expences attending the birth, sustentation, or maintenance of any such child or children, or to be imprisoned or otherwise punished for not contributing thereto, or as in any way renders such reputed or putative father liable to punishment or contribution as such, or as enables churchwardens and overseers, by the order of any two justices of the peace, confirmed by the sessions, to take, seize, and dispose of the goods and chattels, or to receive the annual rents or profits of the lands of any putative father of bastard children, and so much of any Act or Acts as renders an unmarried woman with child liable as such to be summoned, examined, or removed, or as renders the mother of any bastard liable as such to be imprisoned or otherwise punished, shall, so far as respects any child which shall be likely to be born or shall be born a bastard after the passing of this Act, or the mother or putative father of such child, be and the same is hereby repealed. (e)

BASTARDY-SECURITIES.

LXX. And be it further enacted, That every security given or recognizance entered into by any person or persons, or his or their surety, before the passing of this Act, to indemnify any parish or place as to any child or children likely to be born a bastard or bastards, whereof any single woman shall be pregnant at the time of the passing of this Act, or to abide and perform such order or orders as might have been made touching such child or children, pursuant to an Act made and passed in the eighteenth year of the reign of her said late Majesty Queen *Elizabeth*, concerning bastards begotten and born out of lawful matrimony, shall be and the same are hereby declared null and void; and every

Securities
for indem-
nity against
children
likely to be
born, null
and void.

(e) See *ante*, p. 17.

Persons in custody for not giving indemnity to be discharged.

person who shall at the time of the passing this Act be in custody upon the commitment of any justice or justices for not having given such security or entered into such recognizance shall be discharged (upon the application of such person) by any one of the visiting justices of the gaol in which such person shall be in custody under any such commitment.

SETTLEMENT-RULES.

Mother of illegitimate children to maintain the same.

LXXI. And be it further enacted, That every child which shall be born a bastard after the passing of this Act shall have and follow the settlement of the mother of such child until such child shall attain the age of sixteen, or shall acquire a settlement in its own right, and such mother, so long as she shall be unmarried or a widow, shall be bound to maintain such child as a part of her family until such child shall attain the age of sixteen; and all relief granted to such child while under the age of sixteen shall be considered as granted to such mother: Provided always, that such liability of such mother as aforesaid shall cease on the marriage of such child, if a female.

BASTARDY.

Quarter sessions may make an order on putative father of child for its support.

LXXII. And be it enacted, That when any child shall hereafter be born a bastard, and shall by reason of the inability of the mother of such child to provide for its maintenance become chargeable to any parish, the overseers or guardians of such parish, or the guardians of any union in which such parish may be situate, may, if they think proper, after diligent inquiry as to the father of such child, apply to the next general quarter sessions of the peace within the jurisdiction of which such parish or union shall be situate, after such child shall have become chargeable, for an order upon the person

whom they shall charge with being the putative father of such child to reimburse such parish or union for its maintenance and support; and the court to which such application shall be made shall proceed to hear evidence thereon, and if it shall be satisfied, after hearing both parties, that the person so charged is really and in truth the father of such child, it shall make such order upon such person in that respect as to such court shall appear to be just and reasonable under all the circumstances of the case; provided always, that no such order shall be made unless the evidence of the mother of such bastard child shall be corroborated in some material particular by other testimony to the satisfaction of such court: Provided also, that such order shall in no case exceed the actual expence incurred or to be incurred for the maintenance and support of such bastard child while so chargeable, and shall continue in force only until such child shall attain the age of seven years, if he shall so long live: provided also, that no part of the monies paid by such putative father in pursuance of such order shall at any time be paid to the mother of such bastard child, nor in any way be applied to the maintenance and support of such mother.

Monies paid not applicable to support of mother.

LXXIII. And be it enacted, That no such application shall be heard at such sessions unless fourteen days notice shall have been given under the hands of such overseers or guardians to the person intended to be charged with being the father of such child of such intended application; and in case there shall not, previously to such sessions, have been sufficient time to give such notice, the hearing of such application shall be deferred to the next ensuing general quarter sessions: Provided always, that whenever such application shall be heard, the costs of the maintenance of such bastard child shall, in case the court shall think fit to make an order thereon, be calculated from the birth

No application to be heard without previous notice.

Costs of maintenance may be calculated from birth of child, if within six months.

of such bastard child, if such birth shall have taken place within six calendar months previous to such application being heard; but if such birth shall have taken place more than six calendar months previously to such application being heard, then from the day of the commencement of six calendar months next preceding the hearing of such application: Provided also, that if upon the hearing of such application the court shall not think fit to make any order thereon, it shall order and direct that the full costs and charges incurred by the person so intended to be charged in resisting such application shall be paid by such overseers or guardians.

Party charged not appearing, court may nevertheless enter into the case.

LXXIV. And be it enacted, That if such person so intended to be charged shall not appear by himself or his attorney at the time when such application shall come on to be heard before such court, according to such notice, such court shall nevertheless proceed to hear the same, unless such overseers or guardians shall produce an agreement under the hand of such person to abide by such order as such court shall make thereon without the hearing of evidence by such court: Provided always, that such court may, notwithstanding such agreement, require that evidence shall be given in support of such application, if it thinks fit, before such order is made.

Party suspected of intending to abscond, to enter into recognizance for appearance

LXXV. And be it enacted, That whenever such overseers or guardians shall have determined to make such application as aforesaid it shall be lawful for one justice of the peace, at the request of such overseers or guardians, to summon the person so intended to be charged with being the father of such bastard child to appear before him; and if such justice shall be satisfied that such person has any intention to abscond or keep out of the way, in order to avoid the consequences of such

application, such justice may require such person to enter into a recognizance to appear and answer thereto, and in case such person shall refuse or neglect to enter into such recognizance, may commit such person to the gaol or house of correction of the county, riding, or division within which such parish shall be situate, until he shall enter into such recognizance, or until such application shall be heard.

LXXVI. And be it enacted, That if at any time after the expiration of one calendar month after an order shall have been made in pursuance of such application it shall appear to one justice, upon the oath of any one of such overseers or guardians, that the payments directed to be made by such order have not been made according thereto and are in arrear, it shall be lawful for such justice or any other justice by warrant under his hand and seal to cause such putative father of such bastard child to be brought before two justices of the peace; and in case such putative father shall refuse or neglect to make payment of such sum of money as shall appear to such justices to be due from him under such order, together with the costs of apprehension, it shall be lawful for such or any two justices to proceed to recover such sum and costs by distress and sale of the goods and chattels of such putative father, or by attaching the wages of such putative father, for the recovery of such sum and costs, in the same manner as wages may be attached under the provisions of this Act.

When payments in arrear father may be proceeded against by distress or attachment of wages.

LXXVII. And be it further enacted, That it shall not be lawful for any person hereafter to be appointed in any parish or union to any office concerned in the administration of the laws for the relief of the poor, or for any person who after the twenty-fifth day of March one thousand eight hundred and thirty-five shall fill any such office, to

No person employed in administration of poor laws to furnish, for his own profit, goods, &c. for relief.

furnish or supply, for his own profit or on his own account, any goods, materials, or provisions ordered to be given in parochial relief, or to furnish or supply any goods, materials, or provisions for or in respect of the money ordered to be given in parochial relief to any person in such parish or union; and every person holding such office shall, on conviction before any two justices of the peace, be subject to a penalty of five pounds for such offence, one half of which penalty shall be paid to the informer, and the other half in aid of the poor-rates of such parish or union. (*f*)

RELIEF.

Sums payable under 43 Eliz. c. 2, s. 7, by relations of poor persons, how recoverable.

LXXVIII. And be it further enacted, (*g*) That all sums of money which shall be assessed by any justices of the peace on the father, grandfather, mother, grandmother, child, or children of any poor person, for the relief or maintenance of such poor person, under or by virtue of the provisions of a certain Act passed in the forty-third year of the reign of her late Majesty Queen *Elizabeth*, intituled *an Act for the relief of the poor*, or of any Act to amend the same, or of this Act, and all penalties and forfeitures to which any person so assessed by such justices for such relief or maintenance shall be liable for any default in paying the same by virtue of the provisions of any of the said recited Acts or of this Act, shall be recoverable against every person so assessed or charged in like manner as penalties and forfeitures are recoverable under the provisions of this Act.

REMOVAL.

No person to be removed till notice sent

LXXIX. And be it further enacted, That from and after the first day of *November* one thousand eight hundred and thirty-four no poor person

(*f*) See *ante*, p. 124, note to section 50.

(*g*) See *ante*, Gen. Int. View, chap. relief, p. 7.

shall be removed or removable, under any order of removal from any parish or workhouse, by reason of his being chargeable to or relieved therein, until twenty-one days after a notice in writing of his being so chargeable or relieved, accompanied by a copy or counterpart of the order of removal of such person, and by a copy of the examination upon which such order was made, shall have been sent, by post or otherwise, by the overseers or guardians of the parish obtaining such order, or any three or more of such guardians, to the overseers of the parish to whom such order shall be directed: Provided always, that if such overseers or guardians as last aforesaid, or any three or more of such guardians, shall by writing under their hands agree to submit to such order, and to receive such poor person, it shall be lawful to remove such poor person according to the tenor of such order, although the said period of twenty-one days may not have elapsed: Provided also, that if notice of appeal against such order of removal shall be received by the overseers or guardians of the parish from which such poor person is directed in such order to be removed within the said period of twenty-one days, it shall not be lawful to remove such poor person until after the time for prosecuting such appeal shall have expired, or, in case such appeal shall be duly prosecuted, until after the final determination of such appeal. (h)

to the parish to which order of removal is directed.

Such person may be removed if order submitted to;

but not in case of appeal.

APPEAL.

LXXX. And be it enacted, That the overseers or guardians of the parish giving such notice of appeal, or their attorney, or any other person authorized by them, shall, until such appeal shall have been heard and decided, at all proper times have free access to such poor person for the purpose

In case of appeal overseers to have access to such poor person touching his settlement.

(h) See *ante*, p. 12.

of examining him touching his settlement; and in case it shall be necessary for the more effectual examination of such person that he should be taken out of the removing parish, such overseers or guardians shall be permitted to remove him therefrom for the time which may be necessary for that purpose: Provided always, that the expence of such removal, and of his maintenance during the same, shall be defrayed by the appellant parish.

Grounds of
appeal to be
stated in
notice.

LXXXI. And be it further enacted, That after the first day of *November* one thousand eight hundred and thirty-four, in every case where notice of appeal against such order shall be given, the overseers or guardians of the parish appealing against such order, or any three or more of such guardians, shall, with such notice, or fourteen days at least before the first day of the sessions at which such appeal is intended to be tried, send or deliver to the overseers of the respondent parish a statement in writing under their hands of the grounds of such appeal; and it shall not be lawful for the overseers of such appellant parish to be heard in support of such appeal unless such notice and statement shall have been so given as aforesaid: Provided always, that it shall not be lawful for the respondent or appellant parish, on the hearing of any appeal, to go into or give evidence of any other grounds of removal, or of appeal against any order of removal, than those set forth in such respective order, examination, or statement as aforesaid.

Parish
losing ap-
peal to pay
such costs
as court
may direct.

LXXXII. And be it further enacted, That upon every such appeal the court before whom the same shall be brought shall and may, if they think fit, order and direct the parish against which the same shall be decided to pay to the other such costs and charges as may to such court appear just and reasonable, and shall certify the amount thereof; and in case the overseers of the poor of the

parish liable to pay the same shall, upon demand, and upon the production of such certificate, refuse or neglect to pay the same, the amount thereof may be recovered from such overseer in the same manner as any penalties or forfeitures are by this Act recoverable.

COSTS.

LXXXIII. And be it further enacted, That if either of the parties shall have included in the order or statement sent as herein-before directed any grounds of removal or of appeal which shall in the opinion of the justices determining the appeal be frivolous and vexatious, such party shall be liable, at the discretion of the said justices, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds, such costs to be recovered in the manner herein-before directed as to the other costs incurred by reason of such appeal.

Party making frivolous statement to pay costs.

LXXXIV. And be it further enacted, That the parish to which any poor person whose settlement shall be in question at the time of granting relief shall be admitted or finally adjudged to belong shall be chargeable with and liable to pay the cost and expence of the relief and maintenance of such poor person, and such cost and expence may be recovered against such parish in the same manner as any penalties or forfeitures are by this Act recoverable: Provided always, that such parish, if not the parish granting such relief, shall pay to the parish by which such relief shall be granted the cost and expence of such relief and maintenance from such time only as notice of such poor person having become chargeable shall have been sent by such relieving parish to the parish to which such poor person shall be so admitted or finally adjudged to belong: Provided always, that no charges or

Cost of relief to be paid by parish to which poor persons belong.

Relief under suspended order not recoverable unless notice sent of such order.

expences of relief or maintenance shall be recoverable under a suspended order of removal unless notice of such order of removal, with a copy of the same, and of the examination upon which such order was made, shall have been given within ten days of such order being made to the overseers of the poor of the parish to whom such order is directed. (i)

PARISH ESTATES.

Power to call for and publish accounts of trusts and charity estates.

LXXXV. And be it enacted, That it shall be lawful for the said commissioners and they are hereby empowered, from time to time as they may think fit, to require from all persons in whom any freehold, copyhold, or leasehold estate, or any other property or funds belonging to any parish, and held in trust for or applicable to the relief of the poor, or which may be applied in diminution of the poor rate of such parish, shall be vested, or who shall be in the receipt of the rents, profits, or income of any such estate, property, or funds, a true and detailed account in writing of the place where such estate may be situate, or in what mode or on what security such other property or funds may be invested, with such details of the rents, profits, and income thereof, and of the appropriation of the same, and of all such other particulars relating thereto, as the said commissioners may direct and require; and such statement or a true copy thereof shall, under the regulations of the said commissioners, be open for the inspection of the owners of property and rate-payers in such parish: Provided always, that nothing herein-before contained shall apply to any funds raised from time to time by the voluntary contributions of the inhabitants of any parish.

(i) See *ante*, p. 124, note to section 50.

STAMP DUTY.

LXXXVI. And be it further enacted, That no advertisement inserted by or under the direction of the said commissioners in the *London Gazette* or any newspaper, for the purpose of carrying into effect any provisions of this act, nor any mortgage, bond, instrument, or assignment thereof, given by way of security, in pursuance of the rules, orders, or regulations of the said commissioners, and conformable thereto, nor any contract or agreement, or appointment of any officer, made or entered into in pursuance of such rules, orders, or regulations, and conformable thereto, nor any other instrument made in pursuance of this Act, nor the appointment of any paid officer engaged in the administration of the laws for the relief of the poor, or in the management or collection of the poor rate, shall be charged or chargeable with any stamp duty whatever.

Advertisements, &c.
not liable to
duty.

LXXXVII. And whereas by an Act passed in the twenty-second year of the reign of King *George the Third*, intituled *an Act for the better Relief and Employment of the Poor*, the visitor and guardian of the poor of any parish, township, or place which shall adopt the provisions of the said recited Act are authorized thereby to borrow money at interest, for the purposes mentioned in the said Act, and to secure such money by a charge upon the poor's rates of such parish, township, or place, in sums not exceeding fifty pounds each, in a certain form contained in the schedule to the said Act, or to that or to the like effect, and which security is directed and allowed to be assigned by indorsement on the back thereof in a certain form also contained in the said schedule, or to that or the like effect: And whereas doubts have arisen touching the liability of such securities as aforesaid, and the assignments

Bonds, &c.
under 22 G.
3. c. 83.
exempted
from duty.

or transfers thereof, to stamp duty, and it is expedient to remove the same; be it therefore enacted and declared, that no bond or other security at any time heretofore or to be at any time hereafter made or entered into in pursuance of the said recited Act, nor any assignment or transfer thereof, shall be charged or chargeable with, or be deemed to be or to have been subject or liable to, any stamp duty whatsoever; any thing in any Act contained to the contrary thereof notwithstanding

POSTAGE-FRANK.

Letters to
and from
board to be
free of
postage.

LXXXVIII. And be it further enacted, That the said commissioners shall and may receive and send by the general post, from and to places within the United Kingdom, all letters and packets relating solely and exclusively to the execution of this Act, free from the duty of postage, provided that such letters and packets as shall be sent to the said commissioners be directed to the “poor law commissioners” at their office in *London*, and that all such letters and packets as shall be sent by the said commissioners shall be in covers, with the words “Office of Poor Law Commissioners, pursuant to Act of Parliament passed in the fifth year of the reign of his Majesty King *William* the Fourth,” printed on the same, and be signed on the outside thereof, under such words, with the name of such person as the said commissioners, with the consent of the Lords Commissioners of the Treasury, or any three or more of them, shall authorize and appoint, in his own handwriting, (such name to be from time to time transmitted to the secretaries of the general post-office in *London* and *Dublin*,) and be sealed with the seal of the said commissioners, and under such other regulations and restrictions as the said Lords Commissioners, or any three or more of them, shall think proper and direct; and the persons to be authorized is hereby strictly forbidden

so to subscribe or seal any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate solely and exclusively to the execution of this Act; and if the person so to be authorized, or any other person, shall send, or cause or permit to be sent, under any such cover, any letter, paper, or writing, or any enclosure, other than what shall relate to the execution of this Act, every person so offending shall forfeit and pay the sum of one hundred pounds, and be dismissed from his office; one moiety of the said penalty to the use of his Majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered in any of his Majesty's courts of record at *Westminster* for offences committed in *England*, and in any of his Majesty's courts of record in *Dublin* for offences committed in *Ireland*, and before the sheriff or stewartry court of the shire or stewartry within which the party offending shall reside, or the offence shall be committed, for offences committed in *Scotland*; and if any letter, paper, or writing, or other enclosure, shall be sent under cover to the said commissioners, the same not relating solely and exclusively to the execution of this Act, they are hereby strictly required and enjoined to transmit the same forthwith to the secretary of the post office in *London*, with the covers under which the same shall be sent, in order that the contents thereof may be charged with the full rates of postage.

Letters not relating solely to the business of the Act to be charged.

OVERSEERS' ACCOUNTS.

LXXXIX. And be it further enacted, That all payments, charges, and allowances made by any overseer or guardian, and charged upon the rates for the relief of the poor, contrary to the provisions of this Act, or at variance with any rule, order, or

Payments contrary to this Act to be dis-allowed.

regulation of the said commissioners made under the authority of this Act, shall be and the same are hereby declared to be illegal, any law, custom, or usage to the contrary notwithstanding; and every justice of the peace is hereby required to disallow as illegal and unfounded all payments, charges, or allowances contrary to the provisions of this Act, or to any such rule, order, or regulation of the said commissioners, which shall be contained in any account of any overseer of the poor or guardian which shall be presented for the purpose of being passed or allowed: Provided always, that no allowance by any justice shall exonerate or discharge such overseer or guardian from any penalty or legal proceeding to which he may have rendered himself liable by having acted contrary to the rules, orders, and regulations of the said commissioners, or to the provisions of this Act.

SUMMONSES.

Service of
summons.

XC. And be it further enacted, That the leaving of any summons authorized to be issued by any commissioner, assistant commissioner, or justice of the peace, under this Act, at the usual or last known place of abode of the party to whom such summons shall be directed, shall in every case be deemed good and sufficient service of such summons.

WORKHOUSE-POLICE.

Repeal of
so much of
6 G. 4. c. 80.
as relates to
prohibition
of spiritu-
ous liquors
in work-
houses.

XCI. And be it further enacted, (*j*) That so much of an Act made and passed in the sixth year of the reign of his late Majesty King *George* the Fourth, intituled *an Act to repeal the duties payable in respect of the spirits distilled in England, and of licenses for distilling, rectifying, or compounding such spirits, and for the sale of spirits, and to*

(*j*) See *ante*, p. 114, note to section 43.

impose other duties in lieu thereof, and to provide other regulations for the collection of the said duties, and for the sale of spirits, and for the warehousing of such spirits without payment of duty for exportation, as provides that if any master or officer of any workhouse shall sell, use, lend, or give away, or knowingly permit or suffer any spirits to be sold, used, lent, or given away, in any such workhouse, or brought into the same, other than and except such spirits as shall be prescribed or given by the prescription and direction of a physician, surgeon, or apothecary, and to be supplied in pursuance of such prescriptions from the shop of some apothecary, every such master or such other officer shall for every such offence forfeit one hundred pounds, and for the second like offence lose his office: and so much of the said last-mentioned Act as provides that no person shall carry or bring, or attempt to endeavour to carry or bring, any spirits, except to be used in the way of medicine, into any workhouse, under the pain of being imprisoned for every such offence for any time not exceeding three months; and also so much of the said last-mentioned Act as provides that every master and chief officer of every workhouse shall procure one or more copy or copies of the clauses of the said Act mentioned to be printed or fairly written and hung up in one of the most public places in the workhouse, and renew the same from time to time, so that it may be always kept fair and legible, on pain of forfeiting the sum of ten pounds for every wilful default; or as enables any justice of the peace to demand a sight of such copy so hung up in some public place, to convict such master or officer of such default; shall be and the same is hereby repealed. (k)

XCII. And be it further enacted, That if any person shall carry, bring, or introduce, or attempt

Penalty for
introducing
spirituous

(k) See *ante*, p. 114, n.

liquors
into work-
houses.

or endeavour to carry, bring, or introduce, into any workhouse now or hereafter to be established, any spirituous or fermented liquor without the order in writing of the master of such workhouse, it shall be lawful for the master of such workhouse, or any officer of the same acting under his direction, to apprehend or cause to be apprehended such offender, and to carry him or her before a justice of the peace, who is hereby empowered to hear and determine such offence in a summary way; and upon conviction thereof the party so offending shall forfeit and pay any sum of money not exceeding ten pounds for every such offence, as such justice may direct; and in default of payment of the penalty hereby imposed such justice may and is hereby required to commit such offender to the common gaol or house of correction for the district in which such workhouse shall be situate for any space of time not exceeding two calendar months, unless such penalty shall be sooner paid.

Penalty on
masters of
work-
houses for
allowing
use of
liquors, or
ill-treat-
ment or
misconduct

XCIH. And be it further enacted, (1) That if any master of a workhouse shall order any spirituous or fermented liquor to be carried, brought, or introduced into any workhouse, except for the domestic use of himself or of any officer of the said workhouse, or their respective families, or except by and under the written authority of the surgeon of such workhouse, or of any justice visiting the same, or of the guardians of such workhouse, or in conformity with any rules, orders, or regulations of the said commissioners; or if any such master or any other officer of any workhouse shall carry, bring, or introduce into such workhouse, or sell, use, lend, or give away therein, or knowingly permit or suffer to be carried, brought, or introduced, or sold, used, lent, or given away therein, any spirituous or fermented liquor, contrary to the rules, orders, and regulations of the said commissioners; or shall punish with any cor-

(1) See *ante*, p. 114, n.

poral punishment any adult person in such workhouse, or confine any such person for any offence or misbehaviour for any longer space of time than twenty-four hours, or such further space of time as may be necessary in order to have such person carried before a justice of the peace; or shall in any way abuse or ill-treat, or be guilty of any other misbehaviour, or otherwise misconduct himself towards or with respect to any poor person in such workhouse; every such master or officer of a workhouse so offending shall for every such offence, upon the complaint of the overseers or guardians of the parish or union to which such workhouse shall belong, or of any such poor person, and upon conviction of such offence before any two justices, forfeit and pay such sums of money, not being more than twenty pounds, as such justices may direct; and in default of payment of the penalty hereby imposed such justices may and are hereby required to commit such offender to the common gaol or house of correction for the district in which such workhouse shall be situate for any space of time not exceeding six calendar months, unless such penalty shall be sooner paid: Provided always, that if at the time when any such master or officer of a workhouse shall be so convicted of any such offence there shall be due to him any sum of money or salary in respect of his employment as such master or officer of such workhouse, or upon any balance of account from the overseers or guardians of the parish or union to which such workhouse shall belong, it shall be lawful for such justices, upon the application of such overseers or guardians, by order in writing under their hand to direct that such of money, salary, or balance, so far as the same shall extend, or a sufficient part thereof, shall be retained and applied for the use of such parish or union by such overseers or guardians, in payment or part payment of any such penalty; and such order shall be a good and valid discharge to such overseers or guardians for so much

Power for justices to order salaries, &c. to be stopped for payment of penalties.

money as may by such order be directed to be so retained and applied against the claim or demand of the master or other officer of such workhouse in respect of any such sum of money, salary, or balance.

Masters to hang up two preceding clauses in workhouse.

XCIV. And be it further enacted, That the master of every workhouse shall cause one or more copy or copies of the two preceding clauses to be printed or fairly written, and hung up in one of the most public places of such workhouse, and renew the same from time to time, so that it be always kept fair and legible, on pain of forfeiting the sum of ten pounds for every wilful default. (*m*)

POLICE.

Penalties on overseers, &c. disobeying guardians.

XCV. And be it further enacted, That in case any overseer, assistant overseer, master of a workhouse, or other officer of any parish or union, shall wilfully disobey the legal and reasonable orders of such justices and guardians in carrying the rules, orders, and regulations of the said commissioners, or assistant commissioners, or the provisions of this Act, into execution, every such offender shall, upon conviction before any two justices, forfeit and pay for every such offence, any sum not exceeding five pounds.

No prosecution of overseer not executing illegal orders.

XCVI. Provided always, and be it further enacted, That no overseer shall from henceforth be liable to any prosecution or penalty for not carrying into execution any illegal order of such justices or guardians, any law or statute to the contrary notwithstanding.

Penalty on overseers, &c.

XCVII. And be it further enacted, That if any overseer, assistant overseer, master of a workhouse,

(*m*) See *ante*, p. 114, n.

or other paid officer, or any other person employed by or under the authority of the said guardians shall purloin, embezzle, or wilfully waste or misapply any of the monies, goods, or chattels, belonging to any parish or union, every such offender shall, besides and in addition to such pains and penalties as such person so offending shall, independently of this Act, be liable to, upon conviction before any two justices, forfeit and pay for every such offence any sum not exceeding twenty pounds, and also treble the amount or value of such money, goods, or chattels so purloined, embezzled, wasted, or misapplied; and every person so convicted shall be for ever thereafter incapable of serving any office under the provisions of this or any other Act in relation to the relief of the poor.

XCVIII. And be it further enacted, That in case any person shall wilfully neglect or disobey any of the rules, orders, or regulations of the said commissioners or assistant commissioners, or be gullty of any contempt of the said commissioners sitting as a board, such person shall, upon conviction before any two justices, forfeit and pay for the first offence any sum not exceeding five pounds, for the second offence any sum not exceeding twenty pounds nor less than five pounds, and in the event of such person being convicted a third time, such third and every subsequent offence shall be deemed a misdemeanor, and such offender shall be liable to be indicted for the same offence, and shall on conviction pay such fine, not being less than twenty pounds, and suffer such imprisonment, with or without hard labour, as may be awarded against him by the court by or before which he shall be tried and convicted.

PENALTIES.

XCIX. And be it further enacted, That all penalties and forfeitures by this Act inflicted or autho-

purloining
&c., goods.

Penalty for
wilful diso-
bedience of
rules.

Forfeitures
&c., may
be levied by

distress and
sale.

rized to be imposed for any offence against the same shall, upon proof and conviction of the offences respectively before any two justices, either by the confession of the party offending, or by the oath of any credible witness or witnesses, (which oath such justices are in every case hereby fully authorized to administer,) or upon order made as aforesaid, be levied, together with the costs, attending the information, summons, and conviction, by distress and sale of the goods and chattels of the offender or person liable or ordered to pay the same respectively, by warrant under the hands of the justices before whom the party may have been convicted, or, on proof of such conviction, by a warrant under the hands of any two justices acting for the county, riding, or division (which warrant such justices are hereby empowered and required to grant); and the overplus (if any), after such penalties and forfeitures and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner or owners of such goods and chattels; and in case such fines, penalties, and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such justices as aforesaid to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such justices as aforesaid, for his or their appearance before such justices on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than seven days from the time of taking any such security, and which security the said justices as aforesaid are hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such justices as aforesaid, as the case may be, and they are hereby authorized and required, by warrant or

warrants under their hands, to cause such offender or offenders to be committed to the common gaol or house of correction of the county, riding, or place where the offender shall be or reside, there to remain, without bail or mainprize, for any term not exceeding three calendar months, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the penalties and forfeitures, when so levied, shall be paid to or for the use of the parish or union where such offence shall have been committed, to be applied in aid of the poor rate of such parish or union.

How to be applied.

WITNESSES.

C. And be it further enacted, That no owner of property, rate-payer, or inhabitant of any parish or union shall be deemed an incompetent witness in any proceeding for the recovery of any penalty or forfeiture inflicted or imposed for any offence against this Act, notwithstanding such penalty or forfeiture, when recovered, shall be applicable in aid of the poor rate of such parish or union.

Owners, &c. to be competent witnesses.

CI. And be it further enacted, That in all cases in which any penalty or forfeiture is recoverable before the justices' of the peace under this Act it shall and may be lawful for any commissioner or assistant commissioner, or any justice, to whom complaint in writing shall be made of any such offence, to summon the party complained against to appear before any two justices, and on such summons the said two justices may hear and determine the matter of such complaint, and on proof of the offence convict the offender, and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same.

Justices may proceed by summons for penalties.

COMPENSATION.

CII. And be it further enacted, That where any Satisfaction

for special
damage,
distress not
unlawful
through
informality

Tender of
amends
may be
made.

distress shall be made for any sum of money to be levied by virtue of this Act the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any default or want of form in any proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity which shall afterwards happen in making the distress, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case: Provided always, that no plaintiff shall recover in any action for any irregularity, trespass, or wrongful proceedings, if tender of sufficient amends shall be made, by or on behalf of the party who shall have committed or caused to be committed any such irregularity, trespass, or wrongful proceedings, before such action shall have been brought; and in case no such tender shall have been made it shall and may be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he shall see fit, whereupon such proceedings, or orders and judgment, shall be had, made, and given in and by such court as in other actions where the defendant is allowed to pay money into court.

APPEALS.

Appeal to
Quarter
Sessions
within four
calendar
months.

CIII. Provided also, and be it further enacted, That if any person or persons shall find himself, herself, or themselves aggrieved by any order or conviction of any justice or justices, where such person or persons shall be convicted in any penalty or penalties exceeding five pounds, or if any person shall find himself aggrieved by any order made under the provisions of this Act on such person as the putative father of any bastard child, it shall be lawful for such person or persons to appeal to any general

or quarter sessions of the peace to be held in and for the county, riding, or division in which such order shall have been made or conviction taken place within four calendar months next after the cause of complaint shall have arisen, or if such sessions shall be held before the expiration of one calendar month next after such cause of complaint, then such appeal shall be made to the next following sessions, either of which court of sessions is hereby empowered to hear and finally determine the matter of the said appeal, and to make such order therein as to them shall seem meet; which order shall be final and conclusive to and upon all parties; provided that the person or persons so appealing shall give or cause to be given at least fourteen days notice in writing of his, her, or their intention of appealing as aforesaid, and of the matter or cause thereof, to the respondent or respondents, and within five days after such notice shall enter into a recognizance before some justice of the peace, with sufficient securities conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which shall first happen, and to abide the order of and pay such costs as shall be awarded by the justices at such quarter sessions, or any adjournment thereof: and such justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper; and their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

Fourteen
days notice
of appeal
and recog-
nizance to
be entered
into.

LIMITATION OF ACTIONS.

CIV. And be it further enacted, That no action or suit shall be commenced against any commis-
sioner, assistant commissioner, or any other person for any thing done in pursuance of or under the

Limitation
of actions.

Defendant
may plead
the general
issue.

Costs.

authority of this act until twenty-one days' notice has been given thereof in writing to the party or person against whom such action is intended to be brought, nor after sufficient satisfaction or tender thereof shall have been made to the party aggrieved, nor after three calendar months next after the act committed for which such action or suit shall be so brought: and every such action shall be brought, laid, and tried where the cause of action shall have arisen, and not in any other county or place; and the defendant in such action or suit may plead the general issue, and give this Act and any special matter in evidence, at any trial which shall be had thereupon: and if the matter or thing shall appear to have been done under or by virtue of this Act, or if it shall appear that such action or suit was brought before twenty-one days notice thereof given as aforesaid, or that sufficient satisfaction was made or tendered as aforesaid, or if any action or suit shall not be commenced within the time before limited or shall be laid in any other county than as aforesaid, then the jury shall find a verdict for the defendant therein; and if a verdict shall be found for such defendant, or if the plaintiff in such action or suit shall become nonsuit, or suffer a discontinuance of such action, or if, upon any demurrer in such action, judgment shall be given for the defendant therein, then and in any of the cases aforesaid such defendant shall have costs, charges, and expences as between attorney and client, and shall have such remedy for recovering the same as any defendant may have for his or her costs in any other case by law.

CERTIORARI.

Rules, &c.
removable
by certio-
rari to

CV. And be it further enacted, That no rule, order, or regulation of the said commissioners or assistant commissioners, or any of them, shall be

removed or removable by writ of certiorari into any court of record, except his Majesty's Court of King's Bench at *Westminster*; and that every rule, order, or regulation which shall be removed by writ of certiorari into the said Court of King's Bench shall nevertheless, unless and until the same shall be declared illegal by that court, continue in full force and virtue, and be obeyed, performed, and enforced, in such and the same manner, and by such and the same ways and means, as if the same had not been so removed. (n)

King's
Bench.
Rules, &c.
to continue
in force un-
til declared
illegal.

CVI. And be it further enacted, That no application shall be made for any writ of certiorari for the removal of any such rule, order, or regulation, except to the judges when sitting in the said court, nor unless notice in writing shall have been left at the office of the said commissioners at least ten days previous to such application being made, and in which notice shall be set forth the name and description of the party by or on behalf of whom and the day on which it is intended to make such application, together with a statement of the grounds thereof; and thereupon it shall be lawful for the said commissioners to show cause in the first instance against such application, and the court may, if it shall so think fit, forthwith proceed to hear and determine the same upon the grounds set forth in such notice.

Notice to
be given of
application
for writ of
certiorari,
&c.

Commis-
sioners may
show cause.

CVII. And be it further enacted, That previous to any writ of certiorari being issued the party or parties applying for the same shall enter into a recognizance, with sufficient sureties, before one of his majesty's justices of the court of King's Bench, or before a justice of the peace of the county or place in which such person shall re-

Recogni-
zances to be
entered
into.

(n) See *ante*, p. 70, note to section 15.

If rule be
declared
legal, com-
missioners
to have
costs.

side, in the sum of fifty pounds, with condition to prosecute the same, at his or their costs and charges, with effect, without any wilful or affected delay, and in default thereof, or in the event of such rule, order, or regulation, being deemed legal, to pay the said commissioners their full costs, charges, and expences, to be taxed according to the course of the said court of King's Bench; and if the said rule, order, or regulation so removed by the said writ of certiorari into the said court of King's Bench, shall be declared legal by the said court, the commissioners entitled to such costs, within ten days after demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, may recover the same in the same manner as any penalties and forfeitures are recoverable under this Act.

GENERAL RULES.

If rules, the
same to be
notified.

CVIII. And be it further enacted, That if upon the hearing of the application the court shall order a writ of certiorari to issue for bringing up any such rule, order, or regulation, and the same, being brought into court, shall be quashed as illegal, the said commissioners shall forthwith notify the judgment of the court to all unions, parishes, or places to which such rule, order, or regulation shall have been directed, and the same shall from the time of receiving such notice respectively be deemed and taken to be null and void to all intents and purposes whatsoever: Provided that such judgment shall not have the effect of annulling any contracts made in pursuance or upon the authority of any such rule, order, or regulation which at the receipt of such notice respectively shall have been executed by either of the contracting parties: Provided also, that no person shall be liable to be prosecuted, either by indictment or by civil action, for or in respect

Proviso for
existing
contracts.

No person
answerable
till receipt
of notice.

of any act done by him before the receipt of such notice, under the authority and in pursuance of such rule, order, or regulation.

INTERPRETATIONS.

CIX. And be it further enacted, That in the construction of this Act the word "Auditor" shall be construed to mean and include every person, other than justices of the peace acting in virtue of their office, appointed or empowered to audit, control, examine, allow, or disallow the accounts of any guardian, overseer, or vestrymen relating to the receipt of expenditure of the poor-rate; the words "general rule" shall be construed to mean any rule relating to the management of the poor or to the execution of this Act which shall at the time of issuing the same be addressed by the said commissioners to more than one union, or to more parishes or places than one not forming a union, or not to be formed into or added to a union under or by virtue of such rule; the word "guardian" shall be construed to mean and include any visitor, governor, director, manager, acting guardian, vestryman, or other officer in a parish or union, appointed or entitled to act as a manager of the poor, and in the distribution or ordering of the relief to the poor from the poor-rate, under any general or local Act of Parliament; the words "justice or justices of the peace" shall be construed to include justices of the peace of any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act; the word "oath" shall be construed to include the affirmation of a Quaker, separatist or Moravian; the words "orders and regulations" shall be construed to mean and include any rule, order, regulation, or bye law relating to the management or relief of the poor, or the execution of this Act,

Interpreta-
tion clause.

which at the time of issuing the same shall be addressed, directed, or applied to any one parish or union, or to any number of parishes which have been or by virtue of any order shall be constituted a union or added to a union; the word "officer" shall be construed to extend to any clergyman, schoolmaster, person duly licensed to practise as a medical man, vestry-clerk, treasurer, collector, assistant overseer, governor, master or mistress of a workhouse, or any other person who shall be employed in any parish or union in carrying this Act or the laws for the relief of the poor into execution, and whether performing one or more of the above-mentioned functions; the word "overseer" shall be construed to mean and include overseers of the poor, churchwardens, so far as they are authorized or required by law to act in the management or relief of the poor, or in the collection or distribution of the poor-rate, assistant overseer, or any other subordinate officer, whether paid or unpaid, in any parish or union, who shall be employed therein in carrying this Act or the laws for the relief of the poor into execution; the word "owner" shall be construed to include any person for the time being in the actual occupation of any property rateable to the relief of the poor, and not let to him at rack rent, or any person receiving the rack rent of any such property, either on his own account or as mortgagee or other incumbrancer in possession; and the words "rack rent" shall be construed to mean any rent which shall not be less than two thirds of the full improved net annual value of any property; the word "parish" shall be construed to include any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division or district of a place, maintaining its own poor, whether parochial or extra-parochial; the word "person" shall be construed to include any body politic, corporate, or collegiate, aggregate or sole, as well as any individual; the word "poor"

shall be construed to include any pauper or poor or indigent person applying for or receiving relief from the poor rate in *England* or *Wales*, or chargeable thereto; the words "poor law," or "laws for the relief of the poor," shall be construed to include every Act of Parliament for the time being in force for the relief or management of the poor, or relating to the execution of the same, or the administration of such relief; the words "poor rate" shall be construed to include any rate, rate in aid, mulct, cess, assessment, collection, levy, ley, subscription, or contribution raised, assessed, imposed, levied, collected, or disbursed for the relief of the poor in any parish or union; that the words "general quarter sessions" shall extend to and be construed to include general or quarter sessions, or adjournment thereof for any county, division of a county, riding, borough, liberty, division of a liberty, precinct, county of a city, city, county of a town, cinque port, or town corporate, unless where otherwise provided by this Act; the word "union" shall be construed to include any number of parishes united for any purpose whatever under the provisions of this Act, or incorporated under the said Act made and passed in the twenty-second year of his late Majesty King *George* the Third, intituled *an Act for the better relief and employment of the poor*, or incorporated for the relief or maintenance of the poor under any local act; the words "united workhouse" shall be construed to mean and include any workhouse of a union; the word "vestry" shall be construed to mean any open, customary, or select vestry, or any meeting of inhabitants convened by any notice such as would have been required for the assembling of a meeting in vestry, at which meeting any business relating to the poor or the poor-rate shall be transacted or taken into consideration, so far as such business is concerned; the word "workhouse" shall be construed to include any house in which the poor of any parish or union shall be lodged and maintained, or any

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c. 83.

house or building purchased, erected, hired, or used at the expence of the poor-rate, by any parish, vestry, guardian, or overseer, for the reception, employment, classification, or relief of any poor person therein at the expence of such parish; and wherever in this Act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there be something in the subject or context repugnant to such construction.

Act may be amended this session.

CX. And be it further enacted, That this Act may be altered, amended or repealed in this present session of parliament.

FORMS.

NOTICE OF ORDER OF REMOVAL.

See sect. 79.

“ Parish of Winfarthing, in the County of Norfolk.

“ In the matter of Titus Oates, a pauper.

“ To the Overseers (or Guardians if there are Guardians) of the parish of Hethersett, in the said County, (or if a union or incorporation use the name of the same).

“ Take notice that the above-named Titus Oates, lately residing at — in this parish, has, together with Dorothy his wife and their ten children, become chargeable to the said parish, and that an order of justices has been duly obtained for their removal to your parish of Hethersett, as their last place of legal settlement (a copy of which order, and also a copy of the examination on which the same was made, are herewith sent); and take notice, that unless within twenty-one days from the date hereof, you duly serve notice of appeal against the said order, the said paupers will be removed to your said parish, in pursuance of the said order. Dated this — day of — 1834, and signed by the overseers, or any three of the guardians of the removing parish.”

NOTICE OF APPEAL.

See sect. 81, and *ante*, p. 12, *et seq.*

If it is intended to appeal *before* removal, the notice of appeal,—it has been seen, (a) must be sent so as to be *received* by the removing parish within twenty-eight days after that parish *sent* to the appellants notice of the order: and then, according to the time at which the next sessions fall, the appeal will be either to such sessions (which I reckon as the *first*), or not until the *second* sessions after:—for the rule as to which see *ante*, p. 13:—and when the appeal, according to that rule, is to such second sessions after the notice of appeal, the notice—which in other respects may be the common notice—must be accordingly; and when it is to the second sessions, the notice instead of describing it as the “next general quarter sessions of the peace,” may describe it as “the next quarter sessions of the peace but one to be holden, (b) &c.”

(a) *Ante*, p. 13, *et seq.*

(b) Chitty's Burn's Justice, vol. 4, p. 940,—vi. Forms relating to removals, 192 *et seq.* A contemporary says the notice of appeal is the same, which seems not correct without the above qualification.

The usual notice of appeal, so altered, will run as follows :—

“ *To the Churchwardens and Overseers of the Poor of the parish of
in the county of*

County of } *This is to give notice to you, and every of you, that we the
to wit. } churchwardens and overseers of the poor of the parish of
in the county of*
*do intend at the next quarter sessions of the peace but one
to be holden for the said county of
to commence and prosecute an appeal against an order of
A. B. and C. D., two of his Majesty's justices of the peace
of the said county of for and concerning
the removal or order for the removal of E. F. from your
said parish of to our said parish of*

*

*Witness our hands this day of in the year
of our Lord one thousand eight hundred and thirty-one.*

G. H. }
I. K. } *Churchwardens.*

L. M. }
N. O. } *Overseers of the Poor.”*

If the statement of the grounds of appeal accompanies the notice of appeal, it may be as follows, and will come in at the asterisk (*) above.

“ *And that the grounds of such appeal are [that there was in fact no such hiring or service for a year, as in the examination in this case is stated, the said hiring having been for a less period than a year, (a) [or there having been only a service without any years' hiring, as the case may be]. And that after the said hiring and the service under the same, namely, about two days before Martinmas, 1829, the said Titus Oates hired with one J. S. of —, in the parish of —, in the county of —, for one year, until the Martinmas 1830, and served him accordingly. And also that the said Titus Oates, after he had so served the said J. S. as last aforesaid, at Christmas 1830, rented a house and garden at —, in the parish of —, in the county of —, from G. H. of that place, at the rent of 10l. a-year, and occupied the same under such renting or hiring from that time until —, and paid the rent, and also was assessed to and paid the poor-rate (b) due for the same during the whole of that time:]* [so stating all the settlements or other grounds of appeal intended to be insisted upon at the trial.] “ *And take notice, that at the trial of the said appeal, we, on behalf of the said appellant parish, shall give evidence of the said several grounds, some, or one of them, in support of the said appeal. Witness our hands this — day of —, 1834.”*

If on the contrary, the statement of the grounds of appeal be given, either afterwards or on a separate paper, it may be in this form :

(a) This is better than stating that the hiring was only from such a date, which might be required to be proved strictly.

(b) This will be necessary now, see sec. 66.

county of Norfolk.

In the matter of an appeal, wherein

The Parish of Hethersett is the Appellant,

and

The Parish of Winfarthing is the Respondent.

Take notice that the grounds of the above appeal are, that." &c. [stating them as above.]

CERTIFICATE OF COSTS.

See sect. 82.

Under the statute 8 & 9 W. 3, c. 30, s. 3, which enables the justices to award and order such costs as they shall think reasonable, the practice has been for the court to award the costs, and refer it to the clerk of the peace to tax and certify them. That statute did not require the court to certify them, but the order of the court was made complete by its officers certifying them. The present Act, says that the court may order, and, in case of an order, shall certify,—but the allusion is to the existing practice, and means no more, than that the court shall itself order—which is the judicial part of the proceeding,—but may certify, which is merely ministerial in the usual manner by its officer. The following form, therefore, as to the costs under the 82nd section, will be sufficient:—

County of } At the court of general quarter sessions of the peace of our
 } sovereign lord the King, holden at in and for the
 said county of in the first week after the Epiphany, to wit, on
 Thursday, the fourteenth day of January, in the year of the reign
 of our sovereign lord William the Fourth, King over the United Kingdom
 of Great Britain and Ireland, and so forth, and in the year of our Lord
 one thousand eight hundred and thirty, before F. R. P., esquire, chairman,
 J. D., esquire, and others, justices of our said lord the King, assigned to
 keep the peace in the said county, and also to hear and determine divers
 felonies, trespasses, and other misdemeanours in the said county com-
 mitted, and of the quorum, and so forth, Whereas an appeal against an
 order for the removal of S. W. B., his wife, and their children, namely,
 J., aged about years, E., aged about years, and D., aged about
 months, from the parish of in the county of aforesaid,
 to the parish of L., in the county of D., stands adjourned to the present
 quarter sessions. It is now ordered that the said order be and the same
 is hereby quashed with costs, and also the costs of maintaining the pau-
 pers, which is to be referred to the clerk of the peace for his allowance.

By the Court,

H. R.,

Clerk of the peace.

I certify that I have taxed the appellants' costs in this appeal at the sum of pounds, shillings, and pence, and the further sum of pounds, shillings, and pence, for the maintenance of the paupers, making together the sum of pounds, shillings, and pence.

H. R.

H. R.

For the purpose however of serving a certificate of the costs on the party against whom they are granted, as is required by the 82d section, it seems desirable, if not necessary, that the court having ascertained the costs from its officer, should certify them separately, The following form would be sufficient :—

“ Court of Quarter Sessions holden in and for the East Riding of the County of York, at Beverley, in the said Riding, on ———.

In an appeal against an order of removal, tried at these sessions, wherein the churchwardens and overseers of the poor of the parish of Hethersett were the appellants, and the churchwardens and overseers of the parish of Winfarthing were the respondents, and wherein this Court adjudged and ordered, amongst other things, that the said respondents should pay unto the said appellants their costs, occasioned by prosecuting the said appeal: It is hereby certified that the said costs amount to the sum of ———.

By the Court,

A. B. Chairman.”

The 83d section, as to the costs of relief under a suspended order, provides, “ that no charges of relief or maintenance shall be recoverable under a suspended order of removal, unless notice of the order, with a copy of the same, and of the examination upon which such order was made, shall have been given, within ten days of such order being made, “ to the overseers of the poor of the parish, to whom such order is directed.”

Where therefore the respondents succeed, and the costs of maintenance under a suspended order is allowed, in the above or common order should be inserted the following recital :—

* *“ And whereas it appears to the justices here, that notice of the order of removal was given to the said appellants within ten days from the making thereof.”*

NOTICE TO PUTATIVE FATHER.

See sec. 73, and ante.

Whereas Ann Styles, single woman, was on the——day of——last, delivered of a male bastard child; and the said child, on the——day of——last, by reason of its said mother being unable to provide for its maintenance, became chargeable to the parish of——, and from thence hitherto has been maintained and supported by the said parish. And whereas we the undersigned, being the overseers of the poor of the said parish, [or “ the guardians of the poor of the said parish,” or “ the guardians of the union in which such parish is situate,”] have made diligent inquiry as to the father of the said child, and find that you, John Nokes, are the father of the same : therefore take notice, that at the next General Quarter Sessions of the Peace, to be holden for the county of——within which such parish is situate, we, as such overseers of the poor of the said parish, intend to make application to the Court at the said Sessions, for an order upon you, John Nokes, to reimburse the said parish for the maintenance and support of the said child. Given under our hands this——day of ——1834.

To John Nokes, of——, labourer.

*A. B. } Overseers of the said
C. D. } parish of——*

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- Persons wilfully neglecting or disobeying rules, &c. of commissioners or assistant commissioners, or guilty of contempt to commissioners sitting as a board, to pay for first offence not exceeding 5*l.*, for the second not exceeding 20*l.*, nor less than 5*l.* Third and subsequent offence a misdemeanour, punishable on a fine of not less than 20*l.* and imprisonment, &c. s. 98 *id.*
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- “POOR,” meaning of, s. 109 *id.*
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- “POOR RATE,” meaning of, s. *id.* *id.*

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- “RACK RENT,” meaning of, s. 109 168

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— for the guidance and control of guardians, vestries, and parish officers, s. *id.* . *id.*

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- by being apprenticed in the sea service abolished, s. 67
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- by estate, not to be retained any longer than the person inhabits within ten miles thereof, s. 68 *id.*
- for purposes of, united parishes may be considered as one parish, s. 33 *id.*
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- not payable on advertisements inserted by direction of commissioners in the London Gazette, &c. ; nor on any mortgage, bond, instrument, &c. in pursuance of rule, &c. of commissioners ; nor on any such contract or agreement ; nor on the appointment of any officer, &c. s. 86 151
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- 36 Geo. 3, c. 33, s. s. 1, 2, repealed—s. 53 128
- 43 Geo. 3, c. 47, s. 2 repealed—s. 60 135
- 55 Geo. 3, c. 137, s. s. 3 and 4 repealed, limiting the allowances in certain cases, s. 53 129
- 56 Geo. 3, c. 129, part of s. 1 repealed, so far as it restrains parishes at a greater distance than ten miles from workhouse from becoming contributors to it, s. 31 95
- 45 Geo. 3, c. 54, s. 1 repealed—s. 50 125
- 59 Geo. 3, c. 12, s. s. 2 and 5 repealed—s. 53 128
- 6 Geo. 4, c. 80, repealed as to any masters of workhouses who shall sell, &c. spirits in workhouse, s. 91 154
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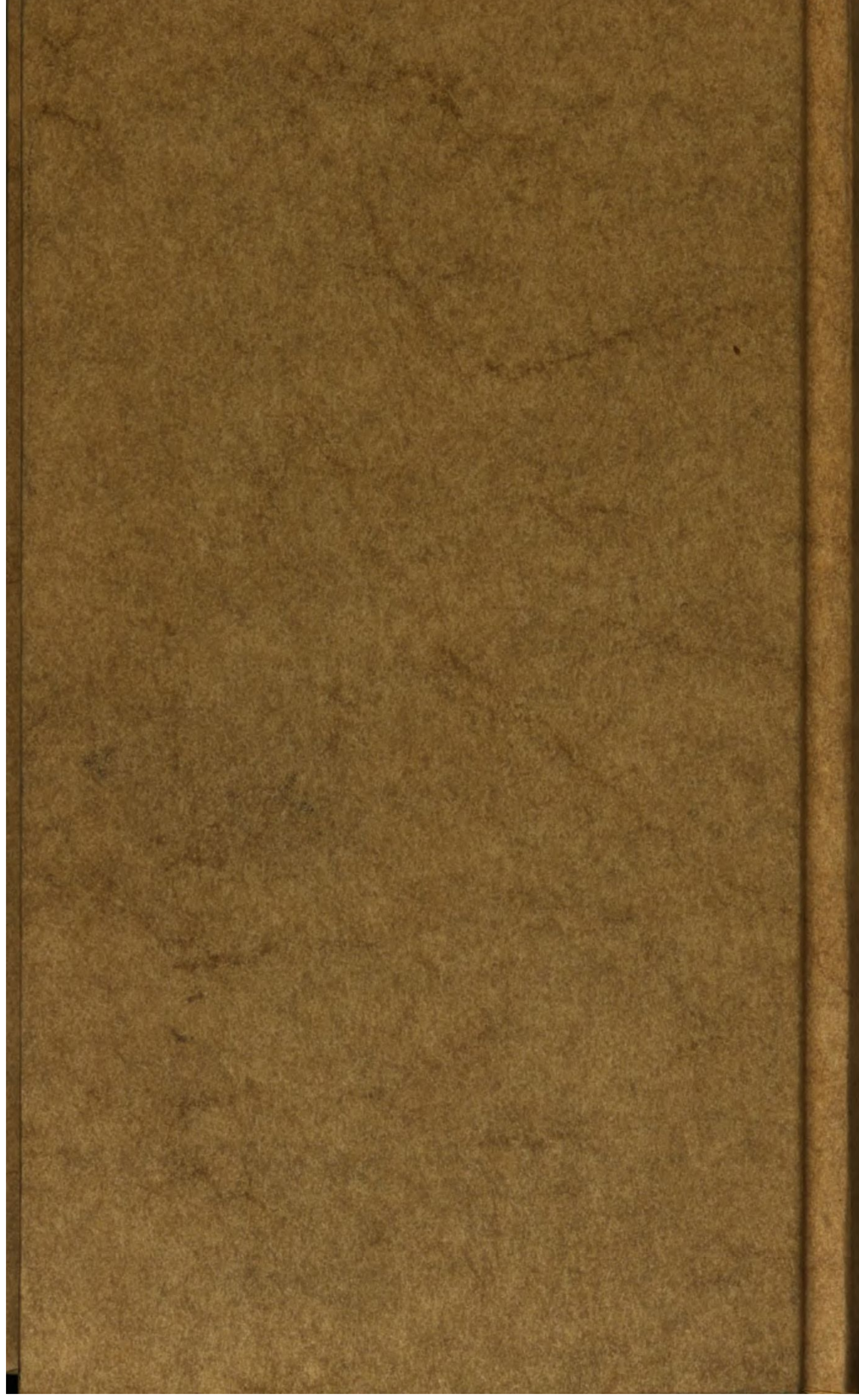
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